

OFFICIAL DOCUMENTS

CORRESPONDENCE RESPECTING THE TRANSIT TRAFFIC ACROSS HOLLAND OF MATERIALS SUSCEPTIBLE OF EMPLOYMENT AS MILITARY SUPPLIES¹

No. 1

*Memorandum communicated by Netherlands Minister,
October 9, 1917*

- (a) *Transit of metals from Belgium to Germany through the Netherlands.*
- (b) *Transit of gravel, etc., from Germany to Belgium through the Netherlands.*

The Netherlands Government are bound from one side by the Rhine Convention, which guarantees a free passage for all merchandise up and down the Rhine, and from the other side by the Fifth Hague Convention, which does not allow the transit of convoys either of munitions or provisions over their territory.

The Netherlands Government had to reconcile these two in some respect conflicting obligations.

Ad (a) In view of the above-mentioned difficulty they limited the obligatory free passage from Belgium through [*sic*] Germany to goods which had no connection with the military operations in Belgium. No requisitioned metals were, for that reason, allowed to pass through Netherlands territory. The metal, however, which is obtained in Belgium by melting ore imported for that purpose from Germany, could evidently not be considered as requisitioned metal, and the Netherlands Government deem themselves therefore bound to allow its transit. When the Netherlands Minister of Foreign Affairs wrote on the 10th June to Sir Walter Townley that the transit of all metals would in future be forbidden on account of the great difficulty to decide whether any metal was requisitioned or not, it did not occur to him

¹ British Parliamentary Paper, Miscellaneous No. 17 (1917). [Cd. 8693.]

that there might in fact exist any kind of metal of which the non-requisitioning would be so evident as in the case of the above-mentioned melted copper; as soon as this eventually came to his knowledge, however, he immediately informed the British Legation that this copper of course could not be prevented from passing through to Germany.

The Minister of Foreign Affairs begs to express his sincere hope that what in fact was nothing but a comprehensible omission on his part will not be considered by the British Government as pointing to a tendency not to observe given assurances.

Two cargoes of this copper metal have passed the Netherlands already, but it is to be expected that others may follow. The Netherlands Government feel confident that the British Government will admit the impossibility in which the Netherlands Government is placed by the Rhine Convention to forbid the free transit of these goods.

Ad (b) The Netherlands Government have given themselves all possible trouble to inform themselves as fully and accurately as possible as to the destination of the sand and gravel which is sent from Germany to Belgium, in order to be able to strictly limit these consignments to nonmilitary purposes. Two Netherlands officers of the Royal Military Engineer Corps were sent to Belgium to investigate the matter on the spot, and their report was communicated to the British Legation on the 23d October, 1916. The report was, in the eyes of the Netherlands Government, conclusive as to the fact that the quantity of gravel, etc., which had passed through the Netherlands from Germany to Belgium had in fact been used entirely for the construction of nonmilitary works, such as Article 43 of the Fourth Hague Convention obliges the belligerent to execute in an occupied territory. In order, however, to make themselves still more sure in this respect, the same two Netherlands officers were sent again to Belgium in the course of last summer. From their investigations on the spot the Netherlands Government drew the conclusion that, the roads being now all repaired, a further amelioration of them could serve military purposes only, and they therefore decided to allow the further transport through the Netherlands no farther than on a very restricted scale, limiting it to the quantity apparently necessary for the ordinary keeping up of the roads in the beginning of 1918. As these cargoes had to arrive on the place of their destination before the waters may be frozen, it was decided that a quantity of 370,000 tons would be allowed to pass through, in two equal portions, between the 15th September and the 15th November.

The Netherlands Government have the intimate conviction that by allowing the above transports within the limits indicated, they have acted in the fullest conformity with their duties as a neutral and their conventional obligations. They have, therefore, been most painfully surprised that in answer to their note of the 14th September, in which they explained to the British Minister at The Hague the justification of their attitude, Sir Walter Townley informed the Minister of Foreign Affairs on the 20th September that, unless an assurance would be given that the transit of gravel, etc., as well as of metals would cease, the British Government intended to discontinue any facilities for the transmission of Dutch cable messages. In government circles this menace has not failed to make a most painful impression. The Netherlands Government are convinced that in view of the Rhine Act they can not take a line of action different from the one pursued by them now. The terms of that convention oblige them to allow the transit of all merchandise of which they can not state with certitude that they are included in Article 2 of the Fifth Hague Convention. They, therefore, have great difficulty to believe that, for the sole reason that the attitude of the Netherlands Government — though in itself fully correct — is contrary to the interests of the British nation, the British Government would have recourse to a measure which not only lacks all connection with the transit of metals or gravel but which would assume the character of reprisals and against which the Netherlands are powerless. Such a measure could hardly be considered otherwise than as an abuse of power of a belligerent nation towards a neutral country which continually observes in the most scrupulous way its duty of neutrality towards all belligerents, without regard to the difficulties which it thereby creates for itself. The Netherlands Government have never hesitated to render with impartiality to all belligerents any service congruent with their neutrality, of which their offer to the British and German Governments to give hospitality to several thousands of their prisoners of war is the most recent example.

London, October 9, 1917.

No. 2

Mr. Balfour to M. van Swinderen

Foreign Office, October 23, 1917.

SIR: With reference to the difference which has arisen between our two governments relative to the passage into Belgium through Holland of materials susceptible of use for the construction of concrete defenses on the German front in Flanders and for other warlike purposes, and to the passage across Holland in transit from Belgium to Germany of metals and other materials intended for employment in the German munition factories, I have the honor to send you herewith a memorandum in reply to the legal arguments contained in your communication to this Department of the 9th instant.

I have etc.

A. J. BALFOUR.

Inclosure in No. 2

*Memorandum containing the Reply of His Majesty's Government to
Memorandum of the Netherlands Minister of October 9, 1917.*

In a memorandum ¹ dated 9th October, the Netherlands Minister was good enough to formulate the arguments which he had used on behalf of his government to justify the transit across Netherlands territory of metals from Belgium to Germany, and of sand and gravel from Germany to Belgium.

2. The memorandum separates the transit of metals from the transit of the sand and gravel, and advances different contentions with regard to each. In the opinion of His Majesty's Government, there is no fundamental distinction between the two, and to attempt to differentiate between them merely confuses the issue by the introduction of minor and irrelevant considerations. In each case His Majesty's Government contend that the Netherlands Government are allowing the German Government to make use for military purposes of Dutch territory in a way contrary to the established principles of international law and of public right. The German Government have been and are being allowed to transport supplies required in connection with their military operations from their own territory to territory in German

¹ See No. 1.

occupation, and *vice versa*, across the territory of a state taking no part in the war. The intention and the result is materially to relieve the strain upon the railways and waterways of the belligerent country essential to its military operations. That is the broad proposition for which His Majesty's Government contend, and they are unable to find in the arguments contained in M. van Swinderen's memorandum any justification for the direct assistance to their enemies which is in this way being rendered by the Netherlands Government.

3. In respect of the transit of metals from Belgium to Germany, the memorandum maintains that when the Netherlands Minister for Foreign Affairs wrote to Sir W. Townley on the 10th June that the transit of all metals would in future be stopped, he forgot that there might be some metals which it was obvious had not been requisitioned and as to which there was consequently no reason for prohibiting the traffic. The memorandum states that the Netherlands Government, being bound on one side by the Rhine Convention and on the other by the Land War Neutrality Convention, were obliged to reconcile these two conflicting obligations, and had done so by prohibiting the transit of requisitioned goods.

4. His Majesty's Government regard this reasoning as unsound. The obligation incumbent upon a neutral state is not merely to prohibit the passage of requisitioned goods: it is founded upon the general principle that a neutral state must not allow any use of its territory to be made by a belligerent for military operations — the transit of belligerent convoys of munitions or provisions would be such a use, and therefore their transit is prohibited by the convention mentioned above. What is taking place in this case, even upon the facts as stated in the memorandum, amounts to a use of neutral territory for such transit purposes, and thereby constitutes a breach of the obligation incumbent upon a neutral state. If Germany finds it necessary, for her own purposes, to send commodities containing copper to Belgium to be smelted in order to extract the metal, and then to return the metal from Belgium to her own territory for use in her munition factories, the carriage of these supplies backwards and forwards, if permitted via neutral territory, affords relief to the direct military transport system between Belgium and Germany and constitutes the use by Germany of Netherlands territory for military purposes. For the Netherlands Government to permit this, is to fail in the observance of their duties as a neutral.

5. The distinction between Article 2 and Article 7 of the Land War Neutrality Convention is quite simple. The former article is aimed at the use of neutral territory by a belligerent government and comes into play whenever the belligerent state is itself concerned with both the dispatch and the receipt of the troops, stores, or supplies forwarded. Article 7 deals with the transport of goods which have been acquired by a belligerent state as the result of commercial transactions with private persons in foreign countries. Such transactions primarily do not concern the neutral government. Measures which it thinks it desirable to impose for the purpose of preventing such dealings by its nationals, or of preventing the export of such commodities from its territory, or their passage across it, are taken not in order to carry out the obligations of neutrality, but in the interest of the neutral nation itself.

6. The memorandum states that the transit of the metals is guaranteed by the Rhine Conventions. A search of the provisions of the treaties as to the Rhine navigation has been made by the appropriate department of His Majesty's Government, but no stipulation has been found which has any bearing on the question. These treaties deal with the right of passage for goods up and down the Rhine between the riverain states and the sea. No stipulation has been found which obliges the Netherlands Government to permit the passage of goods over the Dutch waterways which were not on their way to or from the sea. His Majesty's Government would therefore be grateful if the Netherlands Minister would indicate with greater precision to what provision in these treaties he refers. In any case, His Majesty's Government would not be prepared to admit that the detailed arrangements which have been entered into in order to carry out the principles as to freedom of commerce on rivers, laid down by the Congress of Vienna, could be interpreted to justify, still less to compel, violations of the obligations of neutrality.

7. With regard to the sand and gravel, M. van Swinderen's memorandum argues that the Netherlands Government are bound under the Rhine Conventions to permit the passage of all merchandise which can not be stated with certainty to fall within Article 2 of the Land War Neutrality Convention, and that they have done their best to limit the consignments which have been allowed to pass to those destined for nonmilitary purposes. From what has been stated above the Netherlands Government will realize that the view held by His

Majesty's Government is that no sand and gravel should be allowed to pass — not merely that the quantity should be limited to a certain amount. This sand and gravel is sent from Germany to Belgium by the German Government for its own purposes. It is immaterial whether those purposes are alleged to be civil or alleged to be military. Germany is in occupation of Belgium merely in pursuit of military objects, and there can be no purpose to which the sand and gravel so dispatched via the Dutch waterways can be put which does not constitute a use of those waterways for the forwarding by the enemy of supplies which are required in connection with the war. The suggestion that the sand, etc., is used for purposes within the purview of Article 43 of the Land War Regulations is beside the point. Those regulations apply only to a power in *military* occupation of territory, and supplies required in order to carry out the obligations of a military occupant are supplies required for military purposes. Even if these supplies, therefore, were sent to Belgium via Holland solely for the purpose of carrying out the obligation incumbent upon the occupant of Belgium under Article 43 of the Land War Regulations, and were limited in quantity to the amount required for that purpose, the fact would afford no answer in law to the Netherlands Government.

8. The theory that the transit of these goods through Holland is justified on the above grounds can not indeed be maintained even upon the facts alleged by the Netherlands Government. The sand and gravel which has been allowed to pass is far in excess of anything which is required for civilian purposes in Belgium. There is also the local output to be taken into account. Belgian quarries can themselves easily produce all that is required for nonmilitary purposes in the country; there can, therefore, be no need to supplement those supplies by importations from Germany. In this connection it may be observed that, since it is understood that the Belgian quarries are being worked by prisoners of war, the output is doubtless being used for civilian purposes. Were it not so, there would be a breach of Article 6 of the Land War Regulations, since it would be a case of employing the labor of prisoners of war on work connected with military operations. Ample supplies of sand and gravel for the civilian purposes of Belgium are secured from her own resources, and it follows that any more sent in from outside must be employed for military works. His Majesty's Government feel no doubt but that the Netherlands Government are allowing use to be made of Dutch territory by the Germans for the

purpose of forwarding to Belgium in enormous quantities supplies which have an intimate connection with the military defenses of the German forces on the Western front; and they certainly are not disposed to acquiesce in any arguments to the effect that the Netherlands Government are bound to allow this traffic either under the Rhine Conventions or under any principle of international law or public right. On the contrary, they maintain that the Netherlands Government are bound to put an end forthwith to this transit traffic of the sand and gravel equally with that of the metals.

Foreign Office, October 23, 1917.

No. 3

Sir W. Townley to Mr. Balfour. — (Received October 26)

(Telegraphic)

The Hague, October 25, 1917.

In a written communication the Netherlands Minister for Foreign Affairs informs me that no copper of any kind has passed through Holland from Belgium to Germany since his note of the 10th June, and that M. van Swinderen acted under a misapprehension in stating the contrary in the communication which he made to His Majesty's Government on the 9th October.¹ Yesterday, in the course of conversation, his Excellency said that the Netherlands Minister must have confused copper with the lead on the "Ristelhuebers" which has formed the subject of correspondence in the past.

No. 4

M. van Swinderen to Mr. Balfour

(Translation)

Netherlands Legation, London,

October 26, 1917.

SIR: In paragraph 6 of the memorandum which your Excellency was good enough to send me in your note of the 23d instant² you request me to give you more precise information concerning the stipulations of the Rhine Convention which impose on the Netherlands Government the obligation to guarantee the free navigation of rivers and canals other than the Rhine itself.

¹ See No. 1.

² See No. 2.

To satisfy this request, I venture to draw your attention to Article 2 of the Rhine Convention (of the 17th October, 1868), which guarantees free navigation on the waters lying between the Rhine and Belgium. In addition, I have the honor to refer to paragraphs 1 and 5 of Article 9 of the Treaty of London of the 19th April, 1839, between Belgium and the Netherlands, and also to Article 7 of the special regulations respecting the navigation of the Scheldt contained in Annex 16 to the Act of the Congress of Vienna.

Please accept, etc.

R. DE MAREES VAN SWINDEREN.

No. 5

Mr. Balfour to M. van Swinderen

Foreign Office, October 30, 1917.

SIR: In continuation of the memorandum respecting the transit traffic across Holland inclosed in my note of the 23d instant,¹ I have the honor to send you herewith, for communication to your government, a further memorandum on the subject, the purpose of which, as you will observe, is to meet the request of the Netherlands Government for evidence that sand and gravel transited across Holland has, in fact, been used for warlike purposes on arrival in Belgium.

2. His Majesty's Government learn from His Majesty's Minister at The Hague that the Netherlands Government are anxious to publish at an early date the correspondence between our two governments respecting this question. His Majesty's Government welcome such intention, and trust that the papers to be published by the Netherlands Government will cover, without omission of any material document, the whole period of the controversy, dating back to November, 1915.

3. His Majesty's Government intend on their part to lay the complete correspondence before Parliament as soon as the necessary arrangements can be made. But as these arrangements will entail a certain delay, they propose, as a preliminary step, immediately to publish the more recent correspondence, including your memorandum of the 9th instant, and the further exchange of communications between us which has since taken place.

I have, etc.

A. J. BALFOUR.

¹ See No. 2.

Inclosure 1 in No. 5

Memorandum

1. The memorandum inclosed in Mr. Balfour's note of the 23d instant¹ dealt with the legal contentions put forward by the Netherlands Government in connection with the controversy about the transit of sand and gravel through Holland. It did not, however, deal at any length with the contention advanced by the Netherlands Government in M. van Swinderen's memorandum of the 9th October,² to the effect the Netherlands Government did not deny that if the sand and gravel was intended to be used by the Germans for military purposes its transit should not be allowed, but that the Netherlands Government were not aware of any proof of such intended use, and asked to be furnished with it.

2. His Majesty's Government, as already explained, can not admit that the actual method of using the sand and gravel is under the circumstances decisive as to the legitimacy of permitting its transit; they, nevertheless, think it right to explain to the Netherlands Government the reasons which have induced them to come to the conclusion that beyond all reasonable doubt the sand and gravel transited across Holland is, in fact, used by the Germans for direct military objects, such as the construction of concrete defenses in their intrenched lines.

3. In support of this view they desire in the first place to call attention to the actual quantities transited, in relation to the estimated needs of Belgium for civilian purposes. The Netherlands Government are aware that this matter has been under discussion between the two governments for a considerable period. As early as November, 1915, His Majesty's Government addressed to the Netherlands Government remonstrances on the subject, and in consequence of these remonstrances on the 11th July, 1916, the Netherlands Minister for Foreign Affairs informed the British representative at The Hague that the Netherlands Government had provisionally decided to restrict the transit of gravel to the amount of 75,000 tons per month or 900,000 tons a year, on the ground, presumably, that that was all that could be required for Belgian pacific purposes. Shortly afterwards, however, in consequence of representations by a German expert, the Netherlands Government altered their decision, and agreed to permit a transit

¹ See No. 2.

² See No. 1.

of no less than 420,000 tons a month in the two months of August and September, 1916, being at the rate of 5,000,000 tons in the year, or six times what the Netherlands Government had themselves thought necessary. His Majesty's Government were seriously dissatisfied with this decision, and in consequence of further remonstrances on their part two Dutch officers were directed to proceed to Belgium to inquire what, in their opinion, was reasonably necessary for Belgian civilian needs. His Majesty's Government do not attach great importance to the report of these officers. It appears that they were not allowed to visit the so-called "Etappen-Gebiet," or military zone, so that they could form no opinion, and, as is understood, did not attempt to form any opinion whether sand and gravel transited across Dutch waterways was in fact used for works of fortification.

4. It appears from their report that large quantities of sand and gravel were required for the remaking and maintenance of roadways, the double-ballasting and maintenance in repair of railways, and the strengthening and upkeep of river and canal embankments and maritime and riverside quays. But all these works serve the communications of an army. Is it reasonable then to suppose that they are reconstructed and kept in repair by the Germans, not because of the military purposes which they serve, but because the Belgian population, following their normal peace-time occupations, require to make use of them? Is there the slightest evidence that the Germans have ever considered the interests of the Belgian civilian population? Is it not notorious that deliberately and as part of their settled policy they have destroyed the industrial and economic resources of Belgium because the Belgians would not consent to use those resources for German benefit? Is it not then clear that if road surfaces in Belgium have been transformed from one type to another, and important railway embankments strengthened doubly beyond what was found necessary in peace time, all this has been done in order to improve the lines of communication of the German army and that roads, railways, etc., in Belgium are kept in repair simply in order that they may carry the military traffic which requires to pass over them.

5. The Netherlands Government state that they sent their officers a second time to Belgium this summer, and from their investigation arrived at the conclusion that all roads had been repaired, and they have informed the British Government that a quantity of 1,650,000 tons annually was all that should be transited to satisfy the civilian needs

of Belgium. A French expert, M. Tur, making calculations on the basis of the civilian works existing in Belgium before the war, and assuming a peace-time rate of wear and tear, estimated that 1,345,000 tons represented the nonmilitary requirements of Belgium. It is right to observe that these estimates are in all probability greatly excessive for the actual civilian use of roads and other nonmilitary works, which might reasonably be supposed to require sand and gravel for their upkeep, since civilian life in Belgium is practically at a standstill, and there is, in consequence, no civilian use of the roads or anything else. Nevertheless, for the purpose of the contention now being put forward, His Majesty's Government are content to assume, contrary to their own opinion, that the figures adopted by the Netherlands Government, namely 1,650,000 tons, are correct. It is admitted that far more than that, namely some 2,300,000 tons of sand and gravel have already been transited across Holland during this year, and it seems, therefore, abundantly clear that a considerable proportion of the sand and gravel so transited—amounting to some 600,000 or 700,000 tons—has been used for noncivilian purposes.

6. Nor does the case stop there. There are quarries in Belgium which in peace time produce upwards of 5,000,000 tons of these materials. It is understood that these quarries are now being worked for the Germans by Russian prisoners of war. Possibly their output is considerably less than it would be in peace time, though according to the information in the possession of His Majesty's Government they are being vigorously and efficiently worked. Even allowing for a very largely diminished output it is perfectly plain that sand and gravel more than sufficient to cover the assumed civilian needs of Belgium can be and, in all human probability, is being obtained from these quarries. It is suggested that the output of these quarries is being used for military purposes, but His Majesty's Government are surprised at such a suggestion, and can not accept it. The quarries are being worked by prisoners of war, and by Article 6 of the Hague Land War Regulations it is illegal to use prisoners of war for military work. His Majesty's Government can not believe that the Netherlands Government would contend without proof that the output of the quarries was in fact being used for military purposes, or that they would suggest that if it was being so used they were justified in supplying sand and gravel for the civilian purposes of Belgium, so as to enable the Germans to commit this breach of international law. Moreover,

the British Government have caused an analysis to be made of concrete actually used in German military works on the Flanders front recently captured by the British, and they find that it is composed of material which comes unquestionably from German quarries and not from Belgium. This strongly supports the presumption that the output of the Belgian quarries is being used for what are called Belgian civilian purposes, and that, since that output is more than sufficient for the purposes in question, any sand and gravel transited across Holland from Germany into Belgium must be used for other than civilian, that is for military, purposes.

7. In support of this view the Netherlands Government are reminded that it is clear from the history of the controversy that they themselves have felt great doubts as to the use of the sand and gravel transited across Holland. When the matter was first raised in 1915-16 they thought it right to ask the German Government to be furnished with certificates as to the employment of the sand and gravel, and the German Government readily furnished them with "scraps of paper" certifying that the sand and gravel was required for civilian purposes only. The Netherlands Government came to realize that it would not be right to attach very great importance to these certificates, and it was in spite of them that they decided in the summer of 1916 to restrict the transit of sand and gravel to 75,000 tons a month, as already mentioned. It is true that the Netherlands Government subsequently altered their minds on the point, and after much hesitation and obvious misgivings decided to continue to accept these certificates. Even so they were not satisfied, because early in July of the present year they announced to the German Government that they had arrived at the conclusion that sufficient sand and gravel had been transited for the whole of Belgian pacific needs, and that they were resolved no more should go after the 15th August. This decision was communicated to the British Government in July, and it was therefore with no little amazement they heard a little later that the Netherlands Government had decided to allow transit of an additional 300,000 or 400,000 tons of sand and gravel up to the 15th November, upon the ground that some such quantity would be legitimately sent in the early months of next year, and that at that time there might be a frost which would prevent the use of Dutch waterways. It seems only necessary to point out that if there was a frost in the early months of next year, it would be clearly impossible to utilize the sand and gravel for concrete or road

work, or indeed for any other purposes, and that, even if by some accident of the weather such use became possible, there could be no real objection to deferring for a month or two the works which would otherwise have been done in those months.

8. His Majesty's Government can not resist the conclusion that the reason the German Government demanded the transit of the 300,000 or 400,000 tons before November was because they wanted it for immediate use for military purposes, and much to their regret they find it difficult to believe that the Dutch Government was not perfectly well aware that such was the purpose of the German Government.

9. Finally, the attention of the Netherlands Government is called to the annexed copy ¹ of a sworn affidavit from a Belgian who recently escaped, which states in precise and definite terms that some, at any rate, of the sand and gravel transited across Holland is taken up across the Belgian waterways to convenient places, from which it is used for the construction of military fortifications by the Germans.

10. His Majesty's Government have no wish to embitter the controversy which has arisen between them and the Netherlands Government on this subject. On the contrary, they are exceedingly anxious, as they always have been, to live on the most friendly terms with their Dutch neighbors, and to return as soon as possible to normal relations with them in all respects. They venture therefore very earnestly to press upon the Netherlands Government that the proofs which they have hereinbefore enumerated of the military use of the sand and gravel transited across Holland are in the aggregate overwhelming. It is perfectly true that the sand and gravel was not openly consigned to the military zone in Belgium, or declared to be intended to be used for military purposes by the Germans. It is true that it can not be shown what was done with any particular barge-load of sand or gravel, nor can the actual military work constructed with it be pointed out — that is obviously impossible. But, short of that, the proof required by the Netherlands Government could scarcely be clearer or more cogent.

11. In the first place, there is the fact that since the German occupation there has been little or no pacific use of Belgian roads, railways, and quays. Then there are the quantities of sand and gravel transited into Belgium, vastly in excess of any possible civilian requirements. Then there is the proof that such civilian requirements, if they exist, could be and almost certainly have been supplied from sources in

¹ See Inclosure 2 in No. 5.

Belgium itself. Next there is the certain knowledge that the German demands for these supplies for direct military objects, such as fortifications, is enormous, and there is the evidence that the concrete used for such fortifications is derived from material which comes from Germany — comes, that is, from the source from which the transited gravel comes, and not from the Belgian quarries. And, finally, there is the direct sworn evidence that certain loads of sand and gravel which had been transited were in fact used for military objects.

12. It is difficult to imagine what more any inquirer, really anxious to get at the truth, could ask to be convinced that the sand and gravel transited through Holland is being used for the purpose of directly assisting the military operations of one of the belligerents.

Foreign Office, October 30, 1917.

Inclosure 2 in No. 5

In the Matter of "The Statutory Declarations Act, 1835," and in the Matter of the Transit of Sand and Gravel across Holland

I, of
....., do hereby solemnly and sincerely
declare as follows:—

1. I am a Belgian subject, and escaped from
on the 1917.

I am well acquainted with the conditions prevailing in Belgium, and especially Antwerp, up to the time of my departure. Being out of employment, I had exceptionally good opportunities of seeing what was taking place in connection with the traffic of gravel and sand, and I am able, therefore, to state the facts which I mention as the result of my own observation and knowledge.

2. No sand or gravel is obtainable in Belgium which is suitable for making concrete.

3. In sheds Nos. 2, 3, 4, and 5 at South Antwerp the Germans are working night and day making concrete blocks about 1 meter long and 60 centim. high and broad, having slots and protuberances that fit one into the other. Similar work is being carried out at Bûrecht and at one of the Hoboken factories.

4. There were at the time of my departure from Antwerp about 3,000,000 tons of gravel and sand stacked at Antwerp at the Kattendijk and New Docks.

5. Lighters of about 1,200 tons are constantly employed in bringing sand, gravel, stone, timber, and cement from Germany through Holland to Antwerp and Ghent. These cargoes are discharged on to the quays and then reloaded into small lighters, the crews of which are Belgian and French, and they and the owners of the vessels are forced to work by the Germans under pain of punishment. When these lighters arrive in the military zone the crews are put ashore and housed in armed cement dugouts. These lighters are of about 250-270 tons burden, and about 1,500 are in constant use. In addition to the lighters, 280 tugs of about 25 tons each are constantly engaged in the traffic.

6. Large amounts of dressed timber cut into measured lengths go through in lighters, which are loaded also with sand and pontoons.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of "The Statutory Declarations Act, 1835."

(Signed)

Declared at the Admiralty, in the County of London, this 30th day of October, 1917, before me:

ARTHUR F. B. WELCH,

Commissioner for Oaths.

No. 6

Mr. Balfour to M. van Swinderen

Foreign Office, November 6, 1917.

SIR: Your note of the 26th October¹ referred me to the particular provisions in the Rhine Conventions which, in the opinion of the Netherlands Government, oblige them to permit the passage through the Dutch waterways of the sand and gravel which is forwarded by the German authorities to Belgium. These provisions are Article 2 of the Rhine Convention of the 17th October, 1868; paragraphs 1 and 5 of Article 9 of the Treaty of London of the 19th April, 1839, between Belgium and the Netherlands; and Article 7 of the Regulations relating to the Navigation of the Scheldt annexed to the Proceedings of the Congress of Vienna.

2. Since the receipt of your note the stipulations in question have been subjected to careful examination in this department, but the

¹ See No. 4.

result has not been in any way to modify the views expressed in my memorandum of the 23d October.¹

3. The Rhine Convention of the 7th October, 1868, was a treaty between France, Baden, Bavaria, Hesse, the Netherlands, and Prussia, entered into for the purpose of revising the earlier treaty of the 31st March, 1831, between the same parties (including Nassau). Such revision was necessary because the earlier treaty had undergone numerous modifications, and had ceased in part to harmonize with the existing conditions of the Rhine navigation. Both the treaties were intended to assure to the riverain states of the Rhine that freedom of navigation of rivers passing through several states on which the Congress of Vienna had determined, and to protect them against the levying of taxation or the imposition of restrictions by particular states through whose territory the commerce of the others must pass. The more immediate objects which each treaty was destined to achieve are indicated by their preambles and by the general nature of their contents.

4. Article 2 of the Convention of 1868 does, it is true, make mention of boats and rafts passing from the Rhine to Belgium, but if the article is read as a whole its purpose is clear. There were various channels which might be used for the purpose of passing from the Rhine to Belgium, and these channels were in Holland; boats of other riverain states coming from the Rhine were to be allowed to choose whichever they pleased, so that if one channel should become impracticable for navigation, any other channel which was open to Dutch boats should also be open to them; in short, the purpose of the article was to prevent the Netherlands Government discriminating in favor of Dutch boats. The provision does not extend the general scope of this convention or carry it beyond the general object of the decisions come to at the Congress of Vienna. The stipulation relates only to commerce in its ordinary sense — the passage of goods which are the subject of mercantile transactions. It can have no bearing on the measures which a state may be bound to take, or may be justified in taking, in defense of its neutrality.

5. Paragraphs 1 and 5 of Article 9 of the Treaty of London of 1839 are the next provisions to which you refer. It is not usual to regard the treaty of the 19th April, 1839, between Holland and Belgium as included among the Rhine Conventions. The object of the treaty was to secure the recognition by Holland of the independence and per-

¹ See Inclosure in No. 2.

manent neutrality of Belgium: as part of the arrangement, the freedom of navigation stipulated for by the Congress of Vienna was to apply to the waterways separating the two countries or traversing them both (section 1), and the *commerce* of the two countries was to benefit by the channels between the Scheldt and the Rhine being free and subject only to moderate tolls (section 5).

6. Article 7 of the Regulations of 1815 relating to the navigation of the Scheldt does not appear to affect the question. It merely stipulates that any further arrangements which it may be necessary to make as to the navigation of the Scheldt shall be as favorable as possible to commerce and navigation, and shall be analogous to the regulations established on the Rhine. If the treaty provisions which are at present in force relating to the freedom of the navigation of the Scheldt are regarded by the Netherlands Government as preventing in any way the enforcement of their obligations as a neutral state, His Majesty's Government do not understand on what ground the Netherlands Government claimed to prevent the departure from Antwerp of the German ships which had been captured at that place by the Belgian forces.

7. The detailed examination which I have made above will suffice to demonstrate that His Majesty's Government can not admit that the provisions of the Rhine Convention of 1868, or that the other treaty stipulations to which reference has been made, can afford any justification to the Netherlands Government for failing to enforce their obligations as a neutral state and to put a stop to the use of the Dutch waterways by the German Government for forwarding their supplies of commodities such as sand and gravel for Belgium.

I have, etc.

A. J. BALFOUR.

ANNEXES

No. 1

VIENNA CONGRESS TREATY, MARCH, 1815

Annex XVI

Regulations for the Free Navigation of Rivers
Articles concerning the Navigation of the Necker, the Mayne, the
Moselle, the Meuse, and the Scheldt

ARTICLE VII

Future Regulation of the Navigation of the Scheldt

Everything relating to the navigation of the Scheldt, which may need ulterior arrangement, besides the freedom of navigation on this river, specified in Article I, shall be definitely regulated in a manner the most favorable to commerce and navigation, and the most analogous to the regulations established on the Rhine.

No. 2

CONVENTION BETWEEN THE RIVERAIN STATES OF THE RHINE;
AND REGULATIONS FOR THE NAVIGATION OF THAT RIVER.
SIGNED AT MAYENCE, MARCH 31, 1831

Preamble

The completion of the definitive regulation for the navigation of the Rhine, in accordance with the stipulations of the Act of the Congress of Vienna, having experienced difficulties arising out of the manner in which the riverain governments interpreted the general principles of that Act to the vessels coming from Germany and crossing the Netherlands in a direct line to the open sea and *vice versa*; considering that His Majesty the King of the Netherlands has maintained that his rights of sovereignty extended without any restriction whatever over the sea bathing his states, even where it mixes with the waters of the Rhine, and that, in accordance with the conferences previous to the

Act of the Congress of Vienna, the Leck only was to be considered as the continuation of that river in the Netherlands; whilst His Majesty the King of Prussia, His Majesty the King of Bavaria, and His Royal Highness the Grand Duke of Hesse have maintained that the Act of the Congress of Vienna had placed certain restrictions on the exercise of those rights in so far as they might apply to vessels passing from the Rhine into the sea, and *vice versa*; and that under the denomination of the Rhine the said Act included the whole course, also the branches, and all the mouths of that river in the Netherlands, without any distinction — views in which His Majesty the King of the French and His Royal Highness the Grand Duke of Baden now equally concur; the riverain states have thought proper to leave intact all questions mooted on the general principles of the Act of the Congress of Vienna bearing upon the navigation of the Rhine, as well as the inferences which might be drawn therefrom, and to concert measures and regulations which the navigation of the Rhine can no longer dispense with, on the basis of joint proposals reciprocally made and accepted, under the express reservation, nevertheless, that such understanding shall in no wise be prejudicial to the rights and principles maintained on either side.

No. 3

ACT OF ACCESSION ON THE PART OF THE GERMANIC CONFEDERATION
TO THE TERRITORIAL ARRANGEMENTS CONCERNING THE GRAND
DUCHY OF LUXEMBURG, LAID DOWN IN THE TREATY OF APRIL
19, 1839. LONDON, APRIL 19, 1839.

ARTICLE IX

§ 1. The provisions of Articles CVIII to CXVII, inclusive, of the General Act of the Congress of Vienna, relative to the free navigation of navigable rivers, shall be applied to those navigable rivers which separate the Belgian and the Dutch territories, or which traverse them both.

§ 5. It is also agreed that the navigation of the intermediate channels between the Scheldt and the Rhine, in order to proceed from Antwerp to the Rhine, and *vice versa*, shall continue reciprocally free, and that it shall be subject only to moderate tolls, which shall be the same for the commerce of the two countries.

No. 4

CONVENTION BETWEEN FRANCE, GRAND DUCHY OF BADEN, BAVARIA,
GRAND DUCHY OF HESSE, NETHERLANDS, AND PRUSSIA, RELATIVE
TO THE NAVIGATION OF THE RHINE. SIGNED AT MANN-
HEIM, OCTOBER 17, 1868.

Preamble

The convention relative to the navigation of the Rhine concluded on the 31st March, 1831, between the riverain governments, having since then undergone numerous modifications, and a part of the stipulations contained therein being no longer in harmony with the actual conditions of the navigation, His Majesty the Emperor of the French, His Royal Highness the Grand Duke of Baden, His Majesty the King of Bavaria, His Royal Highness the Grand Duke of Hesse, His Majesty the King of the Netherlands, and His Majesty the King of Prussia have resolved, by common consent, to revise that convention, maintaining, nevertheless, the principle of the free navigation of the Rhine in matters of commerce, and have, to that effect, appointed commissioners plenipotentiary, namely:—

ARTICLE II

Vessels affected to the navigation of the Rhine, and rafts or floats of timber coming from the Rhine, shall have the right to choose whichever route they wish in traversing the Netherlands on their way from the Rhine to the open sea or to Belgium, and *vice versa*. If one of the navigable channels connecting the open sea and the Rhine via Dordrecht, Rotterdam, Hellevoetsluis, and Brielle becomes impracticable for navigation from natural causes or by reason of mechanical works, the navigable channel which is appointed for the use of Netherlands vessels in place of the obstructed channel shall be equally open for navigation by the other riverain states. Any vessel having the right to carry the flag of one of the riverain states and able to prove that right by a document issued by the competent authority shall be considered as affected to the navigation of the Rhine.

CORRESPONDENCE WITH THE NETHERLANDS GOVERNMENT RESPECTING DEFENSIVELY ARMED BRITISH MERCHANT VESSELS¹

No. 1

Sir Edward Grey to Mr. Chilton

(Telegraphic.)

Foreign Office, August 8, 1914.

You should lose no time in explaining to Netherlands Government that British armed merchant vessels are armed solely for purposes of defense, in case they raise any question as to their position. Existing rules of international law grant the right of defense to all merchant vessels when attacked. There can be no right on the part of a neutral government to order the internment of British-owned merchant vessels, nor to require them before putting to sea to land their guns, because the duty of such neutral government to order the immediate departure or internment of belligerent vessels is limited to actual and potential warships, and as Great Britain does not admit that any Power has the right to convert merchant vessels into warships on the high seas, British merchant vessels that are in foreign ports can not be so converted.

As German rules permit German merchant vessels to be converted on the high seas, we maintain our claim to have them interned unless the neutral government are prepared to assume responsibility for a binding assurance that no such conversion shall take place.

No. 2

Mr. Chilton to Sir Edward Grey. — (Received August 10)

(Telegraphic.)

The Hague, August 9, 1914.

I communicated contents of your telegram of 8th August to Minister for Foreign Affairs this morning. His Excellency tells me, after consultation with Minister of Marine, that Netherlands Government agree to your demand as to treatment of British and German merchant

¹ British Parliamentary Paper, Miscellaneous No. 14 (1917). [Cd. 8690.]

vessels, but adds that Netherlands officials must examine British vessels for form's sake.

His Excellency is sending me written statement¹ tomorrow, which I will telegraph if necessary; if not, will forward tomorrow night by post.

No. 3

Mr. Chilton to Sir Edward Grey

(Telegraphic. Extract.)

The Hague, August 10, 1914.

Naval attaché had a conversation today with Dutch Minister of Marine on the subject of armed merchantmen.

Latter said that Netherlands Government had already issued precise instructions not to admit to Dutch territorial waters any merchantmen that were capable of performing any warlike act, and that they were therefore placed in a very difficult position by the request of the British Government asking neutrals to differentiate between auxiliary cruisers and merchant vessels defensively armed. He himself fully realized the difference, but feared the people might not, and that if any modification was now made in these instructions the government might be accused by the Dutch navy and therefore by the nation, which up to now had been somewhat afraid of a violation of their territory by England, of departing from its attitude of strict neutrality. This would have the effect of throwing Dutch nation into arms of Germany.

No. 4

Sir Edward Grey to Sir A. Johnstone

Foreign Office, March 7, 1915.

SIR: In view of the menace from German submarines, it is possible that an increase may take place in the number of defensively armed British merchant ships, and that among them may be some which normally trade with Netherlands ports.

I should be glad to learn as soon as possible whether the Netherlands Government still hold the strong objections to the entry of such vessels into their ports which they held at the beginning of the war.

I am, etc.

E. GREY.

¹ This statement was never received.

No. 5

Sir A. Johnstone to Sir Edward Grey. — (Received April 12)

The Hague, April 8, 1915.

SIR: On receipt of your dispatch of the 7th ultimo respecting the possible increase of defensively armed British merchant vessels, some of which normally trade with the Netherlands, I addressed a note to M. Loudon expressing the hope that such vessels would be permitted to enter Dutch ports.

I have now the honor to inclose copy of his Excellency's reply, from which you will perceive that the Netherlands Government will not allow such vessels access to its ports.

I have had a conversation with M. Loudon on this subject, and although his Excellency appeared to regret the necessity, he was quite firm in maintaining that, according to his government's interpretation of international law, the admission of armed merchantmen, even if armed for defense only, was impossible.

I pointed out to his Excellency that the submarine warfare as waged by the Germans was contrary to all dictates of law and humanity, but I could not move him from his position.

I have, etc.

ALAN JOHNSTONE.

Inclosure in No. 5

Netherlands Minister for Foreign Affairs to Sir A. Johnstone

(Translation)

The Hague, April 7, 1915.

SIR: In your note of the 13th March last your Excellency was good enough to inform me that it might become necessary to provide certain British merchant vessels which sail regularly between the Netherlands and Great Britain with an armament that would only be used by them for defensive purposes. At the same time you expressed the hope that the Queen's Government would see no objection to admitting vessels thus armed into Dutch ports.

I have the honor, in reply, to inform your Excellency that the Dutch proclamation of neutrality prohibits,¹ as a general rule, belligerent

¹ See Appendix, p. 232. Text of declaration printed in Supplement to this JOURNAL, Vol. 9 (1915), p. 81.

warships as well as vessels assimilated to warships from entering Dutch ports, roadsteads, and territorial waters. As far as Dutch territory in Europe is concerned, this rule admits of no exception, except in the case of damage or by reason of stress of weather.

The Queen's Government are of the opinion that the observation of a strict neutrality obliges them to place in the category of vessels assimilated to belligerent warships those merchant vessels of the belligerent parties that are provided with an armament and that consequently would be capable of committing acts of war.

I have therefore the honor to inform your Excellency that the Queen's Government do not consider themselves entitled to admit into their ports the armed merchant vessels alluded to in your Excellency's above-mentioned communication.

While expressing my regrets at not being able to accede to the request which your Excellency was good enough to transmit, I am, etc.

J. LOUDON.

No. 6

Sir Edward Grey to Sir A. Johnstone

Foreign Office, June 9, 1915.

SIR: With reference to your dispatch of the 8th April last, I transmit to you herewith duplicate copies of a memorandum and a pamphlet¹ by Dr. A. Pearce Higgins on the practice of arming merchant ships in self-defense.

You should communicate to the Netherlands Government a copy of this pamphlet and a type-written copy of the memorandum, and should inform them that the government of every neutral state except the Netherlands, with which the question has been raised, including Spain, the United States, and the principal South American Republics, have recognized the legality of arming merchant ships in self-defense, and are admitting ships so armed into their ports on the same footing as ordinary merchant vessels. You should point to the support widely given to this traditional practice by international jurists before the war and urge that in view of the German claim to sink all British ships regardless of the lives of the crew and passengers it is more than ever necessary to insist on all rights of self-defense, including the elementary right of a human being to disable his intending murderer.

¹ Pamphlet not printed.

You should, in conclusion, impress upon the Netherlands Government that if they persist in the view which they have hitherto adopted, there is likely to be an appreciable diminution in the regular traffic of British ships with Netherlands ports.

I am, etc.

E. GREY.

Inclosure in No. 6

Memorandum on Defensively Armed Merchant Ships by Dr. Pearce Higgins, Professor of International Law at Cambridge and Lecturer at the Royal Naval War College.

As there appears to be some doubt as to the legal status of merchant ships which are armed in self-defense, the following statement may be of interest and assistance to shipowners and shipmasters:

The practice of arming ships in self-defense is a very old one. There are Royal Proclamations from the time of Charles I ordering merchant ships to be armed, and to do their utmost to defend themselves against enemy attacks. During the Napoleonic wars the prize courts of Great Britain and the United States recognized that a belligerent merchant ship had a perfect right to arm in her own defense (*The Catherine Elizabeth* (British) and *The Nereide* (United States)). The right of a belligerent merchant ship to carry arms and to resist capture is definitely and clearly laid down in both of the cases just cited.

Chief Justice Marshall of the United States, in the case of *The Nereide*, said: "It is true that on her passage she had a right to defend herself, and defended herself, and might have captured an assailing vessel."

In modern times the right of resistance of merchant vessels is also recognized by the United States Naval War Code, which was published in 1900, by the Italian Code for the Mercantile Marine, 1877, and by the Russian Prize Regulations, 1895.

Writers of weight and authority in Great Britain, the United States, Italy, France, Belgium, and Holland also recognize this right. The late Dr. F. Perels, who was at one time legal adviser to the German Admiralty, quotes with approval Article 10 of the United States Naval War Code, which states: "The personnel of merchant vessels of an enemy, who in self-defense and in protection of the vessel placed in their charge resist an attack, are entitled to the status of prisoners of war."

The most recent authoritative pronouncement on this subject comes from the Institute of International Law, a body composed of international lawyers of all nationalities. This learned society, which meets generally once a year in different countries to discuss and make proposals on points of international law, at its meeting in 1913 at Oxford prepared a Manual of the Laws of Naval Warfare which was adopted with unanimity. Article 12 of this Manual, which is in French, may be translated as follows:

Privateering is forbidden. Except under the conditions specified in Article 5 and the following articles, public and private ships and their crews may not take part in hostilities against the enemy.

Both are, however, allowed to employ force to defend themselves against the attack of an enemy ship.

The crews of enemy merchant ships have for centuries been liable to be treated as prisoners of war whether they resisted capture or not.

Crews who forcibly resist visit and capture, can not, if they are unsuccessful, claim to be released; they remain prisoners of war.

Defensively armed merchant ships must not assume the offensive against enemy merchant ships. They are armed for defense, not for attack, but if they are attacked and they are able successfully to repel the attack and even to capture their assailant, such capture is valid; the captured ship is good prize as between the belligerents.

There is some authority, as in the Italian Code and Russian Prize Regulations, for saying that an armed merchant ship has a right to go to the assistance of other national or allied vessels attacked, and assist them in making a capture. But this is by no means such a well-established rule as the rule of self-defense. It will in nearly all cases be much more important for a defensively armed ship to get safely away with her cargo than to go to the assistance of another merchant ship, for in this case the safety of both may be placed in jeopardy.

The position of the passengers on a defensively armed ship, if no resistance is made, is the same as if they were on an unarmed merchant ship. If, however, the armed ship resists, they will, naturally, have to take their chance of injury or death. Unless they take part in the resistance, they are not liable, if the ship is captured, to be taken prisoners, merely because of the fact of resistance having been offered by the ship.

No. 7

Sir A. Johnstone to Sir Edward Grey. — (Received August 2)

The Hague, July 31, 1915.

SIR: With reference to your dispatch of the 9th ultimo, I have the honor to transmit herewith copy of a note from M. Loudon giving the views of the Netherlands Government on the question of the admission of armed merchant vessels into Netherlands ports.

You will observe that M. Loudon maintains the attitude which has hitherto been adopted by the Netherlands Government to this question and states that it would be contrary to the policy of strict neutrality observed by the Netherlands Government to modify their attitude in this respect.

I have, etc.

ALAN JOHNSTONE.

Inclosure in No. 7

*Netherlands Minister for Foreign Affairs to Sir A. Johnstone
(Translation)*

The Hague, July 31, 1915.

SIR: In my letter of the 7th April last I had the honor to inform your Excellency that the Queen's Government do not consider themselves entitled to admit into their ports, roadsteads, and territorial waters, except in case of damage or stress of weather, the armed merchant vessels referred to by your Excellency in your official note of the 13th March last. I pointed out that the observance of a strict neutrality obliges the Netherlands Government to place in the category of vessels assimilated to belligerent warships alluded to in the proclamation of neutrality those merchant vessels of belligerent nationality which are provided with an armament, and which consequently would be capable of committing acts of war.

In his note of the 12th June last Mr. Chilton returned to this subject. He specially called my attention to the rule of international law which permits belligerent merchant vessels to defend themselves against enemy warships, and he was good enough to add to his note a memorandum and a pamphlet in support of his observations.

I have read these documents with much interest. However, there seems to me to be no connection between the above-mentioned rule

and the question whether the admission into neutral ports of a certain category of vessels of belligerent nationality is or is not compatible with the observance of a strict neutrality. This latter question lies within the province of the law of neutrality. On the other hand, the rule invoked by Mr. Chilton is part of the law of war.

A belligerent merchant vessel which fights to escape capture or destruction by an enemy warship commits an act the legitimacy of which is indeed unquestionable, but which is none the less an act of war.

The Queen's Government are of the opinion that it would be contrary to the strict neutrality which they have determined to observe from the beginning of the war not to assimilate to a belligerent warship, within the terms of the proclamation of neutrality of the 4th August, 1914, any belligerent merchant vessel armed with the object of committing, in case of need, an act of war.

Accept, etc.

J. LOUDON.

No. 8

Sir E. Grey to Sir A. Johnstone

Foreign Office, September 1, 1915.

SIR: I have received your dispatch of the 31st July informing me of the negative reply made by the Netherlands Government to the arguments put forward by His Majesty's Government in favor of the right of British merchant ships carrying armament for defensive purposes to enter Netherlands ports.

I request that you will inform the Netherlands Government that His Majesty's Government have learnt of their decision with the keenest regret. You should add that, apart from the intrinsic fact of this decision, His Majesty's Government can not refrain from expressing the strongest dissent from the view on which it is apparently based, namely, that it is part of the duties of a neutral state to treat merchant ships armed for self-defense on the same footing as warships.

In making the above communication you should say that, while adhering in every way to the views which they have already expressed on the subject, His Majesty's Government do not wish to continue the discussion of it with the Netherlands Government at the present time.

I am, etc.

E. GREY.

No. 9

Sir W. Townley to Mr. Balfour

(Telegraphic.)

The Hague, March 6, 1917.

I learn that the British steamship *Princess Melita*, with a gun mounted aft, arrived yesterday, contrary to regulations of Netherlands Government, at the Hook of Holland, and was ordered out again and left. She however returned later with a request for water, after having dismounted her gun.

As captain of *Princess Melita* feared German submarines, he refused to leave port again without convoy. He states that two enemy submarines attacked the vessel yesterday.

Dutch Minister for Foreign Affairs with whom I have taken the matter up, says, that if gun is put off, *Princess Melita* may enter port and proceed in due course to sea again.

No. 10

Sir W. Townley to Mr. Balfour

(Telegraphic.)

The Hague, March 7, 1917.

Dutch authorities ordered captain of *Princess Melita* to proceed outside territorial waters, where he dropped his gun overboard. He then returned to port and went on to Rotterdam. Vessel will load cargo there, and eventually proceed with convoy to sea.

No. 11.

Mr. Balfour to Sir W. Townley

(Telegraphic.)

Foreign Office, March 10, 1917.

Your telegram of 7th March: Exclusion of defensively armed merchant ships from Dutch ports.

The Dutch admit that it is perfectly permissible by international law for merchant ships to carry guns for defensive purposes (see Orange Book, French version, p. 163), but by a rule of their own making adopted since the war began they exclude such ships from their harbors. Since the rule was adopted, circumstances have changed. On the one hand, the Germans have proclaimed their intention to sink at sight all mer-

chant ships going to or coming from Great Britain. It is not pretended by the Dutch that this practice can be justified by any rule of international law. On the other hand, it has been demonstrated that the possession of a gun adds greatly to the safety of a merchant vessel. His Majesty's Government, therefore, are clearly of opinion that, in the interests of impartial neutrality no less than of friendship, the Dutch Government should relax their rule excluding defensively armed merchant vessels from their ports. Otherwise they are assisting German submarine lawlessness and increasing the danger to our merchant vessels.

Further, at this very time the Netherlands Oversea Trust and the Dutch Government are asking that Dutch vessels shall not be compelled to go into a port of the United Kingdom for the exercise by His Majesty's Government of the belligerent right of visit and search, although the Netherlands Oversea Trust vessels have solemnly agreed to such procedure. They are asking us to forgo both our belligerent and contractual rights so as to increase the safety of their vessels at the same time as they are insisting by their own rules on increasing the danger of ours.

That is unreasonable, and the Dutch Government can not complain if we say that we can make no concessions to them unless they are prepared to show greater good-will towards us.

You should point all this out to the Dutch Government.

No. 12

Sir W. Townley to Mr. Balfour. — (Received April 11)

The Hague, April 6, 1917.

SIR: I have the honor to transmit herewith copy of a note from the Netherlands Government setting forth their reasons for refusing to allow armed merchantmen to enter Netherlands territorial waters.

I have, etc.

WALTER TOWNLEY.

Inclosure in No. 12

Netherlands Minister for Foreign Affairs to Sir W. Townley
(Translation)

The Hague, April 4, 1917.

SIR: The regulation of the Netherlands Government regarding armed merchant vessels was, as far back as 1915, the object of correspondence between the British Legation and the Queen's Government. In this connection I venture to refer to Sir Alan Johnstone's letters of the 13th March and the 12th June, 1915, and mine of the 7th April and the 31st July, 1915.

The memorandum which your Excellency was good enough to transmit to me on the 12th March last intimates, without, however, furnishing reasons in support, that there is a contradiction between, on the one hand, the Netherlands Government's recognition of the legitimacy of armed resistance by a belligerent merchant vessel to an enemy warship, and, on the other, the resolution which they took at the beginning of the war not to admit armed merchant vessels of belligerent ownership within Dutch jurisdiction.

I had already, in my above-mentioned notes, had the honor to draw Sir Alan Johnstone's attention to the fundamental distinction existing between the principles of the law of war, which decide the legitimacy of the resistance offered by belligerent merchant vessels to enemy warships, and the principles of the law of neutrality, on which depends the point whether the admission into neutral ports of warships of belligerent nationality and of certain categories of vessels assimilated thereto, in particular, armed merchantmen, is or is not compatible with the observance of a strict neutrality.

It is by applying these principles of neutrality that the Netherlands Government have forbidden as a general rule, save for certain exceptions, the presence within their jurisdiction of belligerent warships and vessels assimilated to warships; from the beginning they have placed in this last category those merchant vessels of belligerent Powers which are provided with an armament and are consequently capable of committing acts of war.

In fact, a state in the very special geographical position in which the Netherlands find themselves in relation to the belligerent nations, could not insure respect for the neutrality of the territory under its

jurisdiction, except by forbidding access to this territory not only to warships but also to every armed vessel. This exclusion, on the one hand, safeguards the country against any concealed aggression. It prevents, on the other hand, acts of violence between belligerents from being committed within our territorial waters. Lastly, it offers to each belligerent the most effective guarantee that their adversaries will not succeed in utilizing some part of this territory as a base for naval operations.

If the Queen's Government, in default of conventional regulations regarding the special question of armed merchantmen, have been obliged themselves to formulate a rule, this rule in none the less an application of the fundamental principles of neutrality and can not be qualified as an arbitrary measure.

The Queen's Government are well aware of the perilous situation in which British merchant vessels find themselves when — like those of neutrals — they are subjected without means of defense to the attacks of German submarines. They do not hesitate to admit the perfect right of such vessels to arm themselves. But the considerations which in August, 1914, determined the attitude of the government still hold good. What, however, renders the question far more serious is the fact that it would be a matter of revoking at this moment a rule of neutrality which was established at the very beginning of the war, and was duly notified later to the two belligerent parties.

Nothing could be more contrary to the very principle of neutrality than to revoke during the course of a war, and at the demand of one of the belligerents, a rule of neutrality which, owing to the course of events, whatever they may be, proves to be disadvantageous to that belligerent only.

This revocation would unquestionably assume the character of a favor, and would consequently be incompatible with the impartiality which is the distinctive feature of neutrality.

If the British Government would be good enough to place themselves in the position of a neutral government, they would realize without difficulty that the Netherlands Government could not modify their line of conduct without compromising the neutrality which they have adopted since the beginning of the war and which they are determined to observe without failing. Your Excellency's Government will further recognize that it was the British delegates who, at the Second Peace Conference, laid particular stress on the fact that the

English doctrine does not admit that a state has the right of modifying its rules of neutrality in the course of a war, except with a view to rendering them *more* strict. (*Actes*, Vol. I, p. 326; Vol. III, p. 621.)

As I have had the occasion of saying to your Excellency, it is certainly not due to want of friendship or of good-will towards the British Government that the Queen's Government are obliged to maintain their attitude. They therefore can not believe that the British Government, for the sole reason that the Netherlands Government are unwilling to depart from the line of strict neutrality that they have traced for themselves, would refuse to maintain in favor of Dutch shipowners the facilities which have already been granted them for the examination of their vessels in a British overseas port, and which are as effective, for the purpose of the exercise of the right of search, as examination carried out in a port of the United Kingdom.

The antithesis put forward in your Excellency's memorandum with regard to the facilities asked for by Dutch shipowners at the very moment when the Netherlands Government refuse to grant a favor to British vessels is therefore difficult to uphold. For, according to the law of nations, the British Government are under no obligation to effect the examination of Dutch vessels in a port of the United Kingdom, instead of carrying it out on the high seas or in a British overseas port. On the other hand, by admitting at the present moment British armed vessels within Dutch jurisdiction, the Queen's Government would be gravely lacking in observance of an obligation which flows from their neutrality.

The withdrawal of the said facilities, which would not be dictated by any necessity of control, would have the character of an unjustified measure of reprisal, since no unfriendly or unjust action on the part of the Netherlands would have caused it.

The Queen's Government make a most serious appeal to the British Government's sentiment of equity in begging them not to hinder the provisioning of the Dutch nation, which is ever becoming more difficult, by measures in no way proportionate to their own in refusing to admit armed merchantmen into Dutch ports. For it can not be denied that if Dutch ships carrying provisions enter a port of the United Kingdom, whether of their own free will or because forced to do so, they run the greatest risk of being sunk without mercy by the enemies of Great Britain. The population of the Netherlands, depending as it does to such a large extent for its provisioning on overseas products, would eventually be the victim.

The Queen's Government are persuaded that Great Britain, in order to avoid this unfortunate consequence, which she doubtless can not desire, will maintain the calling facilities recently granted to shipping, which are duly appreciated as much by shipowners as by the Netherlands Government themselves.

J. LOUDON.

No. 13

Lord Robert Cecil to Sir W. Townley

Foreign Office, May 18, 1917.

SIR: 1. The note from the Netherlands Government, setting forth their reasons for refusing to allow armed merchantmen to enter Netherlands territorial waters, transmitted to me in your dispatch of the 6th April, 1917, has received the most careful consideration.

2. The main argument of this note repeats in substance the contention advanced in the answer contained in Sir A. Johnstone's dispatch of the 8th April, 1915, that the observance of a strict neutrality imposes on the Netherlands Government the duty of treating armed belligerent merchant vessels as ships assimilated to warships within the meaning of Article 4 of the proclamation of neutrality issued by the Netherlands Government at the outbreak of the present war in 1914. I propose, therefore, to consider this argument in detail.

3. The terms of Article 4 of the proclamation of neutrality make no specific mention of merchantmen which are armed for defensive purposes: it merely prohibits the presence within the jurisdiction of any belligerent warship or vessel assimilated to a warship. To interpret these words as covering British merchant ships engaged in commercial operations carrying a gun for purposes of self-defense is neither the natural nor the reasonable construction of the language, and I think it may be shown that it is unsound, for in no sense is an armed merchant ship, such as those with which we are now dealing, assimilated to a warship.

4. The essential idea of a warship is that it is equipped for the purpose of exercising the rights which appertain exclusively to a belligerent: it is armed for the purpose of facilitating the exercise of those rights, that is to say, for purposes of offense. The British merchant vessels which carry a gun are armed solely for purposes of defense. The right of self-defense is not limited to belligerents, it may be exercised by the ships of all nations without restriction, whether neutral

or belligerent, and a merchant ship armed for purposes of defense has, therefore, nothing in common with a belligerent warship and is in no way assimilated to it. Nor does such a vessel possess any of the distinguishing features which, according to No. 7 of the conventions which were signed at The Hague in 1907, a warship ought to possess. Such a vessel is neither under the direct authority, the immediate control, nor the responsibility of the Power whose flag it flies; it bears none of the external marks which distinguish the warships of that nationality; the commander is not in the service of the state nor duly commissioned; nor are the crew subject to military discipline. In no single respect is a merchant ship which is armed solely for purposes of defense assimilated to a warship or capable of committing an act of war.

5. It may be well to consider briefly what are the vessels one might assume were intended to be covered by the phrase in Article 4 of the proclamation of neutrality — "vessels assimilated to warships." The Netherlands Government will no doubt remember that during the Second Peace Conference the British delegation put forward a proposal for extending the meaning of the term "warship" so as to make it cover certain categories of merchant ships not pursuing ordinary trading avocations, but in attendance upon a belligerent fleet, or engaged in duties bringing them into direct communication with the belligerent fighting ships. The proposal was ultimately withdrawn, but it gave rise to some very interesting discussions at that conference, and was the subject of a report on these "*vaisseaux auxiliaires*," which will be found on p. 862 of Volume 3 of the Proceedings of the Conference. Under this proposal warships were to consist of "*navires de combats*" and "*vaisseaux auxiliaires*." With regard to the second category, the report contains the following passage:

Sur ce point, son Excellence Lord Reay a expliqué le point de vue de sa délégation, qui est d'*assimiler* aux navires militaires d'une force navale, quant au traitement auquel ils sont exposés, les navires de commerce, soit employés au service de cette flotte pour un usage quelconque, soit placés sous ses ordres, soit servant à des transports de troupes, dans tous les cas, prêtant ainsi à la flotte une assistance évidemment hostile. . . . Ce n'est pas le commerce avec le belligérant qui est visé, c'est le fait pour un navire d'être au service de ce belligérant, à quelque titre, d'ailleurs, que ce soit.

6. In view of the discussions at The Hague, the natural interpretation of Article 4 of the proclamation of neutrality is that it is the vessels included in category (b) of the British proposal which are meant

to be covered by the words "(navires de guerre ou) *navires y assimilés*," not vessels engaged in purely commercial avocations which are incapable of performing an act of war, and which are in no sense employed in assisting a belligerent or in any service connected with the conduct of hostilities.

7. The argument of the Netherlands Government is that the observance of a strict neutrality obliges them to treat these defensively armed ships as assimilated to warships. The only rules of neutrality which a neutral state is obliged to enforce are those which are obligatory under the rules of international law, and the Netherlands Government will scarcely maintain that it is the principles of international law which require it to exclude from its ports a merchant ship armed for purposes of self-defense. The surest guide to the principles of international law is to be found in the practice of states, and during the present struggle no other neutral government (except perhaps that of President Carranza in Mexico) has found itself obliged by the rules of international law to deny the use of its ports to such vessels.

8. If further proof is wanted that the principles of international law do not necessitate any such regulation as that which the Netherlands Government are now insisting on, it is sufficient to mention that the practice of arming merchant ships is by no means new, and yet no state has hitherto thought it necessary to adopt the attitude which the Netherlands Government are adopting now, and no writer of repute has suggested that a neutral state is bound to do so. The Netherlands Government will, I feel sure, admit that whatever other reasons there may be for their present attitude, international law did not compel them to adopt it.

9. The enactment, if any there be, which excludes from Netherlands ports merchant vessels armed solely for defense is a rule of internal legislation and nothing more. His Majesty's Government do not question the right of the Netherlands Government to enact rules and regulations as to the use of Dutch ports in the time of war which may be stricter and more far-reaching than any which international law imposes upon them the obligation to enact. Their right to do so flows from their attributes as a sovereign state, but there are certain limitations on the legislative freedom of a sovereign state. Treaty obligations must be borne in mind, and the rules imposed for the purposes of neutrality must be impartial, for impartiality is of the essence of neutrality.

10. The practice of encouraging merchant vessels to carry arms was revived by His Majesty's Government as a measure of protection to British shipping against the raiders which it was evident the German Government intended to create in time of war by converting their merchant ships into warships on the high seas. To the latter government it was an inconvenient move, as it would interfere with the depredations which these invalidly converted warships would be able to commit. The German publicists were therefore instructed by their government immediately to deny altogether the right of a merchant ship to defend herself from a belligerent warship, and that view the enemy government, regardless of the precedents of the past, has continued to maintain. If this view prevailed, arms would be valueless to a merchant ship, even though their presence is legitimate, because she could not make use of them. By this means the arming of merchantmen would be discouraged, and, in fact, so far as is known to His Majesty's Government, the few German merchant vessels which venture on a voyage to foreign ports are not armed. A rule which closes Dutch ports to merchant ships armed in self-defense must operate with complete want of equality and impartiality as between the two belligerents because it opens Dutch ports to all German merchant vessels without opening them to all British vessels. A British merchant vessel will not, in fact, be allowed that freedom of trade with Holland which the commercial treaty between the two countries guarantees to it unless it deprives itself of the safeguards which, by the law of its own country, not less than by international law, it is entitled to adopt.

11. The note of the 4th April suggests four reasons why it is incumbent on the Netherlands Government to close their ports to armed merchant ships: That the geographical position of Holland prevents her insuring respect for her neutrality unless such a rule is adopted; that it safeguards the country against concealed aggression; that it prevents acts of violence between belligerents within the jurisdiction; and that it guarantees each of the belligerents against use by the other of Dutch territory as a base of naval operations.

12. As to these various arguments, I may say that the particular way in which the geographical position of Holland is exceptional or differs from that of other neutral countries limitrophe with the enemy countries is not explained in the note, and His Majesty's Government feel unable to appreciate that argument. Merchant ships engaged

in commerce are singularly unsuited for committing acts of aggression in foreign ports; but if one were minded to do so, an unarmed vessel would be almost as capable of committing such acts as an armed one. No foreign Power acts on the assumption that foreign merchant vessels will so abuse the hospitality of its ports as to commit acts of aggression, and if there were any real reason to apprehend such conduct on the part of British vessels, the exclusion of those only which are armed for purposes of defense would do nothing to safeguard the country from it. With regard to the third argument, if belligerents were anxious to commit acts of violence against each other, they would scarcely resort to the use of defensively armed ships for the purpose. As to the last argument, the obligation to prevent the use of their territory as a base of naval operations is incumbent on all neutral countries. His Majesty's Government are unable to see how exclusion of defensively armed merchant ships could conduce towards this result; but, even if it were so, a rule which no other Power has found it necessary to adopt can not be required for the purpose.

13. The last contention with which I find it necessary to deal is that it would constitute a serious infraction of the obligations of the Netherlands Government if they were to vary their rules of neutrality during the continuance of the present hostilities. Reference is made in support of this argument to the statement of the British delegates to the Second Peace Conference in 1907 that they could scarcely conceive of a case where it would be necessary for a neutral to modify the regulations which it had issued for the maintenance of its neutrality with a view to rendering them *less* strict.

14. This contention of the Netherlands Government might have more weight if they had issued any regulation which dealt specifically with the admission to their ports of merchant ships armed for defense. As I have pointed out, Article 4 of the proclamation of neutrality does not, on any fair construction of its terms, cover such vessels, for in no single respect are they assimilated to warships. The more cogent answer, however, to this contention is that all the principles laid down at The Hague presupposed the conduct of hostilities by the belligerents in accordance with the laws of war. They can not apply in their entirety in the presence of such circumstances as the ruthless destruction by enemy submarines of all merchant ships, whether neutral or belligerent, without warning, and irrespective of the service in which they were engaged. Under such conditions the power to exercise

the right of self-defense becomes a matter of cardinal importance and to insist on maintaining the misapplication to merchant ships engaged on purely commercial operations of a neutrality provision relating to vessels assimilated to warships in the face of such action on the part of the enemy is not an observance of neutral duty: it is a passive but none the less real and effective coöperation with the enemy in his campaign of maritime atrocity.

15. The Netherlands Government will, of course, maintain their present interpretation of the Article 4 of their proclamation of neutrality so long as they think it expedient to do so; but on their side His Majesty's Government can only declare that as the extension of that article to merchant ships armed solely for purposes of defense is incompatible with any fair construction of its terms, and as the closing of Netherlands ports to such merchant ships on the plea of neutrality is not required by the law of nations or the practice of other states, and as the provision when regarded as a municipal enactment is inconsistent with the treaty rights of Great Britain and operates exclusively to the advantage of the enemy, they must hold the Netherlands Government responsible for all losses to British ships trading with Holland so long as those vessels are, if they enter a Netherlands port, obliged to forgo their right to provide themselves with means of self-defense.

16. You will read this dispatch to the Minister for Foreign Affairs and will leave with him a copy.

I am, etc.

ROBERT CECIL.

No. 14

Sir W. Townley to Mr. Balfour

The Hague, June 20, 1917.

SIR: I have the honor to transmit herewith copy of a note from the Netherlands Minister for Foreign Affairs, setting forth the views of the Netherlands Government with regard to belligerent armed merchantmen.

I have, etc.

WALTER TOWNLEY.

Inclosure in No. 14

(Translation)

Ministry of Foreign Affairs,

The Hague, June 18, 1917.

SIR: On the 4th instant your Excellency was good enough to transmit to me a note of the British Government, dated the 18th May last, regarding the regulation applied by the Queen's Government to armed belligerent merchant vessels. This note, in the first place, points out that Article 4 of the Netherlands declaration of neutrality does not specially mention merchant vessels armed for defensive purposes, but prohibits the admission within Netherlands jurisdiction of warships or of vessels assimilated to warships. The words "assimilated to warships" should, according to the British Government, be interpreted in the light of the proposal made by the British delegation at the Second Peace Conference (Vol. III, *Actes et Documents*, p. 862) relative to merchant vessels "employed in the service of a naval force for any purpose, whether placed under its orders, or serving for the transport of troops, in any case thus affording to the fleet assistance of a clearly warlike character." They could not be applied to a merchant vessel armed with a gun solely for purposes of defense. A merchant vessel, even if provided with an armament, does not possess any of the distinguishing features which, according to the Seventh Hague Convention of 1907 (Articles 1, 2, and 3), a warship ought to possess. Besides, the essential character of a warship is that it is armed for purposes of offense, whilst a merchant vessel, even if armed, is incapable of committing an act of war or of assisting one of the belligerents.

The Queen's Government are unable to admit the accuracy of the above reasoning.

In employing, in Article 4 of the declaration of neutrality, the term "vessels assimilated to warships," the Queen's Government simply intended to exclude from their jurisdiction any vessel, the admission of which would be contrary to their duties as a neutral government, and which would menace the security of the kingdom. It is quite clear that there is no question here — as the remark of the British Government would lead one to believe — of a *technical* term, the use of

which, in a sense other than that attached to it by the British delegation at the Second Peace Conference in a totally different connection, would be excluded.

The assimilation contemplated in the declaration of neutrality does not indeed, and can not, refer to anything but the admission within Dutch jurisdiction. It does not, and can not, confer on the vessels to which it alludes the character of warships. The question whether these vessels do or do not possess the distinguishing marks of warships does not therefore arise.

The Queen's Government are unable to share the British Government's point of view, according to which vessels employed in commerce are, even if armed with a gun, incapable of committing an act of war or of assisting one of the belligerents. An armed merchant vessel undeniably possesses in its armament not only a means of defense, but a means of attack as well.

The British Government then criticize the argument of the Queen's Government that the observation of a strict neutrality obliges them to treat armed merchantmen as assimilated to warships from the point of view of admission into their waters. In their opinion, the surest guide to the principles of international law is to be found in the practice of the various states, and during the present war no other neutral government but the Queen's Government — except, perhaps, that of President Carranza — have found themselves obliged by the rules of international law to deny to the vessels in question the entry into their territorial waters.

The Queen's Government would remark, by the way, that the Governments of Sweden and Denmark have made no pronouncement upon the question, while the Government of the United States, according to Mr. Lansing's declaration in his note of 18th January, 1916, to the ambassadors of the belligerent Powers, were convinced of the correctness of the point of view according to which armed merchant vessels should be treated by neutrals as vessels of war. But apart from this, the Queen's Government, in default of any conventional regulations on this special point, are called upon to decide for themselves what, in the circumstances in which they are placed, the duties of neutrality impose upon them.

The British Government again remark that, in employing their right to issue rules regarding the admission of vessels into their ports, the Queen's Government should have regard for the obligations derived

from treaties and should take care that the rules in question are impartial, impartiality being the dominant principle of neutrality. As German merchant vessels are not armed, the rule relative to the admission of vessels within Dutch jurisdiction would open Dutch ports to all German merchantmen and not to all British merchantmen. It would thus operate in an unequal manner and with partiality. Further, British merchant shipping would not even enjoy any more the treatment assured to it by the treaty of commerce which exists between the Netherlands and Great Britain.

Now, as the British Government were aware, the Queen's Government have, since the beginning of the war, considered it necessary to close their ports to all armed belligerent merchant vessels. At that time it was not out of the question that German merchantmen would arm themselves just as British merchantmen have since done. The measure then operated in a manner absolutely impartial to all. During the course of the war, circumstances have led British merchant vessels to provide themselves with an armament in the interests of their security. If at the present moment the rule does not affect the two belligerent parties in an equal manner, the fault is evidently not due to the Queen's Government, but to the force of circumstances, by which it so often happens that the application of a rule of neutrality affects in a number of cases one of the belligerents only, without there being any question of partiality in favor of its adversary.

As regards the treaty of commerce existing between Great Britain and the Netherlands, it does not (as I have had the honor to observe recently to your Excellency in an analogous case) imply for the contracting governments the obligation to receive *in all circumstances* into their ports, the vessels flying the flag of the other contracting party. If the British Government did not share this opinion, they could not justify various measures that they have taken in the course of the war, and which are not expressly provided for in the treaties; I quote as an example the closing of certain ports of the United Kingdom to Dutch shipping, an exception of which no mention is made in the treaty in question.

The British Government further examine the four reasons which, as explained in my letter of the 4th April last, decided the Netherlands Government to close their ports to armed belligerent merchant vessels.

The first of these four reasons was the very special geographical position in which the Netherlands find themselves in relation to the

belligerent countries. The British Government declare that they are unable to appreciate how this position of the Netherlands is exceptional or differs from that of other neutral countries.

It is sufficient to recall the fact that no other neutral country is situated so close as the Netherlands to the principal theater of the war on land and on sea, and that consequently no other country ran the same degree of risk of seeing its coastal waters, not to mention the rivers which flow into these waters, utilized by the belligerent Powers. These considerations held good especially at the beginning of the war before Belgium was a belligerent party, and when it might consequently be expected that British as well as German merchantmen would use the port of Antwerp. They lost nothing of their value when Belgium became a belligerent party, and when at first only English vessels, and after the capture of Antwerp German vessels only, could enter or leave that port. Lastly, the risk of an encounter near the Dutch coast between the naval forces of the two belligerent parties and their merchant vessels is obvious.

The second of the four reasons was that the exclusion of armed merchantmen assured the security of the Netherlands against any concealed aggression.

The British Government hold the view that vessels destined for commerce are singularly unsuited for committing acts of aggression in foreign ports; but that, if there were an intention of committing such acts, an unarmed vessel would be no less capable of them than an armed one.

Now, if armed merchantmen had been admitted into Dutch ports, the possibility of a large number of these vessels collecting in Dutch waters, and therefore of a real danger, was in no way unlikely.

The third reason was that the regulation issued prevents acts of violence from being committed between the belligerents in our territorial waters. The British Government state that if the belligerents desire to commit acts of violence against each other, they will certainly not resort to the use of defensively armed ships for this purpose.

In putting forward the reason in question, the Queen's Government did not have in view the case of belligerents coming into Dutch ports with the fixed intention of committing acts of violence against their adversaries, but the case of merchant vessels of the opposing sides unexpectedly finding themselves at the same moment in those ports. If they were unarmed, they would not be tempted to commit acts of

violence against each other; but, having an armament, they might doubtless be so tempted.

The fourth reason was that the measure adopted by the Queen's Government offers the most effective guarantee to each of the belligerents that their adversary will not succeed in utilizing any part of Dutch territory as a base of naval operations. This reason does not appear to be clear to the British Government.

It is evident that armed merchantmen, being capable of committing acts of war, could abuse neutral territory as a base of action against the enemy quite as well as warships properly so called.

Lastly, the British Government take up the argument of the Queen's Government that it would be contrary to the very principle of neutrality to revoke in the course of a war and at the demand of one of the belligerents a rule of neutrality which owing to the course of events proves to be disadvantageous to that belligerent only, an argument which the Queen's Government thought would be all the more conclusive in that it was the British delegates who, at the Second Peace Conference, laid particular stress on the fact that English doctrine does not recognize that a state has the right to modify its rules of neutrality during the course of a war, except with a view to rendering them *more* strict.

The British Government are of the opinion that this argument would have more weight if Article 4 of the declaration of neutrality had made special mention of armed merchant vessels.

The revocation of a rule of neutrality established since the beginning of the war, whether it be expressed word for word in the declaration of neutrality or not, is none the less contrary to the principles of the law of nations. The British Government's remark is still less well-founded, as they have been aware of the rule in question since the first days of August, 1914. Besides, the official declarations contained in the Orange Book presented to the States-General in October, 1915, and reproduced in the *Recueil de diverses communications du Ministre des Affaires Étrangères aux États-Généraux par rapport à la neutralité des Pays-Bas et au respect du droit des gens*, are certainly equivalent to a mention in the declaration of neutrality.

In the light of the above, the Netherlands Government find it difficult to take seriously the allegation that their attitude is equivalent to a real, though passive, coöperation in the submarine warfare. They can therefore only decline without hesitation the responsibility which His Britannic Majesty's Government declare their desire to impose

on them for all losses of British ships, trading to Dutch ports, which may have been obliged to forego their armament in order to be admitted.

Accept, etc.

J. LOUDON.

No. 15

Mr. Balfour to Sir W. Townley

Foreign Office, July 17, 1917.

SIR: I duly received your dispatch of the 20th ultimo, and have read with attention the note from the Netherlands Government inclosed therein, containing their reply to the arguments put forward in my dispatch of the 18th May against the exclusion of defensively armed merchant ships from Netherlands ports.

2. The Netherlands Government, after a summary of certain of those arguments, begin by asserting that they do not, in regarding such vessels as "assimilated to warships" for the purpose of applying their neutrality regulations, use the words in the sense in which they were used in the proceedings at the Second Hague Conference, but in a wider and less technical sense. They appear to have meant by the expression, in using it in their regulations, any ship which they might at any time choose to regard as assimilated to a warship, instead of meaning a ship such as had hitherto been generally considered as properly to be classed with warships. It seems unfortunate that they should, without making the fact clearer, use the term in such a sense in a set of published regulations which are based for the greater part on a Hague Convention, and the phrases of which one would naturally expect to be used in a sense conforming to that given them in discussions at the Hague Conference. The Netherlands Government virtually confess that the inclusion of defensively armed merchant ships within the definition of vessels "assimilated to warships," as used in their decree of neutrality, is an arbitrary decision, and there should therefore be no difficulty for them in varying the interpretation of the words which they have adopted.

3. M. Loudon does not dispute the fact, which was pointed out in my previous dispatch, that no neutral government during the present war, except possibly that of General Carranza in Mexico, have thought themselves bound to exclude armed merchant ships from their ports.

They can only point out that two countries with which the question of the admission of such vessels has not, so far as I am aware, been raised by any belligerent government, have not taken any public decision upon it; and that the United States Secretary of State, in a note advocating, in the interests of humanity, a compromise between the opposing belligerent groups in regard to their methods of naval warfare, expressed an opinion at variance with the ancient and settled practice of his own country. The Netherlands Government, therefore, can not contend that there is anything in the practice or theory of other countries to justify their attitude. The practice of those countries is universally contrary to the Netherlands practice. The theory, so far as it has been formulated, is opposed to the theory maintained by the Netherlands Government, except, indeed, in Germany, where, as so often, it has been hastily evolved, by order of the German Government, to suit the special interests of the country.

4. The Netherlands Government again contend that they have the duty of excluding armed merchant ships from their ports, because they could not otherwise insure respect for their neutrality. Their grounds for thinking this are totally inadequate. They endeavor to defend their rule by reference to the special situation of their country and to the effects of their rule in safeguarding Netherlands neutrality. They state that armed merchant ships are more capable than unarmed ships of committing in Netherlands ports acts of violence against the Netherlands and against enemy shipping; they maintain that armed ships are likely to be tempted to use their arms in a neutral port, and that their exclusion is an additional guarantee that Netherlands ports and waters will not be used as a base by one belligerent to the detriment of the other.

5. These arguments contain, it is fair to say, a modicum of truth, but they are quite insufficient to show the existence of a duty on the part of the Netherlands Government to deny facilities to armed merchant ships. Apart from the fact that the fears expressed as to the possible violent conduct of such vessels in neutral ports assume exceptional bad faith and lack of restraint on the part of the masters of the ships concerned, the arguments put forward apply to all neutral countries, and not specially to the Netherlands more than to other countries, the ports of which are used by merchant shipping of the opposing belligerents. They apply, too, with much greater force to warships than to defensively armed merchant ships. Yet it is doubtless recog-

nized by the Netherlands Government that a neutral country is under no obligation to exclude, in the interests of its neutrality, belligerent warships from its ports.

6. It is apparent from the foregoing that it is not the text of the neutrality proclamation which constrains the Netherlands Government, but merely the interpretation of it which has been adopted, and that they are not supported by the theory and practice of other countries, nor justified by special circumstances in denying to armed merchant ships access to their ports and waters. They have, as I anticipated, not ventured to contend that it is the principles of international law which require them to enforce such a rule. On what else do they rely? They claim that they are bound, if they are not to commit an unneutral act, to abstain from altering during the course of the war a rule of neutrality when once published, and point out that the British delegates at the Second Peace Conference maintained that no such alteration should be permitted, except in the direction of greater strictness.

7. This proposal was not, however, accepted by the Conference, and the principle which opposes alterations of any kind in published rules of neutrality is not even technically absolute. The appeal made to it by the Netherlands Government was, moreover, answered in my previous dispatch by an argument which they have totally ignored. I pointed out that "all the principles laid down at The Hague presupposed the conduct of hostilities by the belligerents in accordance with the laws of war," and that "they can not apply in their entirety in the presence of such circumstances as the ruthless destruction by enemy submarines of all merchant ships, whether neutral or belligerent, without warning," a condition of affairs in which "the power to exercise the right of self-defense becomes a matter of cardinal importance."

8. Perhaps the most serious fact with which the world is faced today is the abandonment by the German Empire, in its warfare at sea, of the rules of war and the morality which is the basis of international law. The Netherlands Government apparently do not think this retrogression towards the barbarous methods of ancient warfare worthy of a single word. Their adherence to a position, based on technicalities, which favors the German Empire's immoral methods would, even if those technicalities were not open to criticism as such, obviously be unfortunate, for it is evidently not calculated to help in restoring the outraged principles of international morality.

9. You will read this dispatch to the Netherlands Minister for Foreign Affairs, and will leave with him a copy.

I am etc.

A. J. BALFOUR.

No. 16

Sir W. Townley to Mr. Balfour

The Hague, August 16, 1917.

SIR: I have the honor to transmit herewith copy of the reply of the Netherlands Minister for Foreign Affairs to your dispatch of the 17th ultimo, on the subject of the exclusion of defensively armed merchant ships from Dutch ports, copy of which I left with his Excellency on the 25th ultimo, after having read it to him in accordance with the instructions contained in your above-mentioned dispatch.

I have, etc.

WALTER TOWNLEY.

Inclosure in No. 16

M. Loudon to Sir W. Townley

(Translation)

The Hague, August 15, 1917.

SIR: I have had the honor to receive from your Excellency copy of a note from the British Government dated the 17th July last, containing their observations in reply to my letter of the 18th June, 1917, regarding the regulation applied by the Queen's Government to armed belligerent merchant vessels.

In reply to these observations, I have the honor to bring the following to your Excellency's notice:

The Queen's Government did not say that in their declaration of neutrality they employed the expression "vessels assimilated to war-ships" in any sense other than that attached to it by the Second Peace Conference. They did say and they still maintain that the Conference did not attach to this expression any special meaning which would place it in the category of technical terms.

The British Government, to prove the contrary, refer to the proposal of their delegates relative to the definition of the term "auxiliary vessels." The passage from the Minutes quoted in the British Government's note of the 18th May last mentions that this proposal tended

to assimilate these auxiliary vessels to warships. The proposal was withdrawn, and as a result no definition was found in the law of nations for the term "auxiliary vessels." In these circumstances it is impossible to maintain that the incidental use of the expression "assimilated to warships" has made this expression a technical term.

It is true that the Dutch declaration of neutrality does not enumerate the categories of vessels which are assimilated to warships as regards their admission within Netherlands jurisdiction, but the British Government have since the beginning of the war been aware — through the precise information given to the British naval attaché, Captain Henderson, by my colleague the Minister of Marine in person in August, 1914 — that the Queen's Government included armed belligerent merchant vessels in the expression "vessels assimilated to warships." This interpretation did not at the time evoke any protest from the British Government, who moreover in their regulations for prize court procedure likewise assimilate armed vessels to warships (Prize Court Rules, 1914, Order I).

The Queen's Government can not recognize that a modification of the interpretation of their neutrality declaration would be in itself less serious from the point of view of neutrality than modification of the declaration properly so called or of a rule enacted to meet cases not provided for in the declaration.

The law of nations does not prescribe for neutrals the duty either of admitting armed belligerent merchant vessels within their jurisdiction, or of refusing them entry. It leaves them to determine for themselves their line of conduct on this point. The British Government can not therefore contest, nor have they moreover contested, the legitimacy of the Netherlands regulation. But they reproach the Netherlands Government with being the only neutral government to adopt such an attitude. I have already had the honor of pointing out to your Excellency that this is not quite exact, certain neutral Powers having made no pronouncement on this subject, and the United States Government, in a note dated the 18th January, 1916, having clearly expressed themselves in the sense that armed merchant vessels should be treated by neutrals as warships (cf. the State Department's publication entitled "European War," No. 3, pp. 163, 164).

The British Government set aside this declaration of the United States Government on the pretext that it was expressed in a note conceived with a conciliatory object. It is true that the United States

Government addressed their note to the Allied Governments in a spirit of conciliation, but of course in the sense that they were proposing, in the interests of humanity, that the belligerents should conform on both sides to the prescriptions of international law as understood by the United States. They expressly added that they were convinced of the justice of the view that armed merchant ships should be treated by neutrals as warships.

The British Government do not think it necessary to attach any importance to the arguments put forward by the Queen's Government to prove that the Netherlands regulation was necessary in order to insure the neutrality of Dutch territory.

They do not refer to the most important contingencies which I mentioned to your Excellency under this head as being likely to threaten the integrity of the domain under the jurisdiction of the Netherlands. They do not appear to wish to recognize the fact that these contingencies might have a particularly serious character owing to the geographical position of the Netherlands, between Great Britain and Germany — a position in which no other neutral in the same measure stands.

They confine themselves to considering the case which is the least to be apprehended — that of an act of violence due to the bad faith and lack of self-restraint of the captain of an armed merchant vessel.

The British Government can not, however, refuse to admit that one of the first duties of the Queen's Government was to insure the integrity of their territory, and that this integrity would be seriously endangered if one of the other contingencies to which I alluded happened to occur. In these conditions it was their duty to exclude all belligerent vessels.

The British Government can not justifiably contest either the legitimacy of the Dutch regulation, or, if they would place themselves for a moment in the standpoint of the Netherlands, the gravity of the reasons which caused them to adopt it. They can not, furthermore, maintain that the modification of a rule of neutrality during the war would not be contrary to the law of nations, seeing that they have themselves done the opposite in a memorandum addressed to the United States Government on the 23d of March, 1916, in which it is textually stated: "Such a modification indeed would be inconsistent with the general principles of neutrality as sanctioned in paragraphs 5 and 6 of the preamble to the 13th Convention of The Hague concerning maritime neutrality" ("European War," No. 3, p. 188).

Your Excellency's Government would seem to be of the opinion that the Netherlands Government should nevertheless depart from their present line of conduct in order to show how much they condemn the method by which the German navy carries on war.

Whatever may be their personal opinion on this last point, an opinion that they are not called upon to express to the British Government, the Netherlands Government consider that it would be contrary to a just conception of neutrality if they allowed themselves to be influenced by a consideration of this nature to modify their rules of neutrality or the interpretation of these rules as established by them. In conformity with the standpoint in which they have always placed themselves, towards Great Britain as well as others, the Queen's Government do not set themselves up in judgment upon the measures taken by the belligerents to do harm to one another. They only protest against these measures in so far as they injure the rights of neutrals. The protests, which they have never failed to make, especially as regards submarine warfare, are a proof of this.

J. LOUDON.

No. 17

Mr. Balfour to Sir W. Townley

Foreign Office, September 8, 1917.

SIR: In your dispatch of the 16th ultimo, you transmitted to me a copy of a reply which you had received from the Netherlands Minister for Foreign Affairs to the observations contained in my dispatch of the 17th July in regard to the refusal of the Netherlands Government to admit defensively armed merchant vessels into Dutch ports.

It is apparent that further detailed argument on the subject would serve no useful purpose, and I wish only to draw attention to the most obvious general conclusions which emerge from the correspondence which has passed between His Majesty's Government and the Netherlands Government.

In the first place, the Netherlands Government have been unable to show that they do not stand alone among neutral governments, save for the doubtful exception of General Carranza's administration in Mexico, in adopting a rule excluding defensively armed merchant ships from their ports. They attempt to derive comfort from the fact that the Governments of Sweden and Denmark have not had

occasion to make their views known and from certain observations made in an informal letter addressed by the United States Secretary of State on the 18th January, 1916, to the diplomatic representatives of the Allied Governments in Washington. A few remarks must be made with regard to this letter.

It was written, as a perusal of it shows, with the object of bringing about, if possible, by agreement a cessation of the attacks made by German submarines without warning on merchant ships of the Allied and neutral countries and a confinement of submarine warfare within the limits imposed by the general rules of international law and the principles of humanity. Mr. Lansing suggested that the Allied Governments might be willing, in order to achieve this end, to accept a rule under which merchant vessels of belligerent nationality should be prohibited from carrying armament. Such an agreement would have involved the abandonment of the rule followed and upheld by the United States since the creation of the republic. His note concluded with the words "my government is impressed with the reasonableness of the argument that a merchant vessel carrying an armament of any sort, *in view of the character of submarine warfare and the defensive weakness of undersea craft*, should be held to be an auxiliary cruiser and so treated by a neutral as well as by a belligerent government, and is seriously considering instructing its officials accordingly." The sentence was no doubt intended as an indication that, unless the suggested compromise were seriously considered, armed merchant ships might in the future be excluded from United States ports. The Netherlands Government, in quoting Mr. Lansing merely as saying that he "was convinced of the justice of the view that armed merchant ships should be treated by neutrals as warships," are obviously misrepresenting him.

The agreement suggested by Mr. Lansing was not acceptable to the Allied Governments, and the United States Government shortly afterwards, in a memorandum dated the 25th March, 1916, put on record their view of the legal status of armed merchant ships, which was entirely consonant with the traditional practice of the United States in treating such vessels as ordinary merchantmen; this practice had already, since September, 1914, been put into force during the present war.

The second important observation suggested by the correspondence is that the Netherlands Government have not attempted to answer

the argument of His Majesty's Government that the discussions at the Second Peace Conference, including the contention of the British delegates that it should not be permissible to alter during the course of a war a rule of neutrality once laid down, presupposed the conduct of war by belligerents in accordance with the rules of international law, the flagrant violation of which is, as a matter of fact, an essential feature of the German submarine warfare. This circumstance obviously deprives of all force the appeal of the Netherlands Government, sufficiently weak in itself, to technical legal objections to a modification of their unparalleled regulation.

You should communicate a copy of this dispatch to the Minister for Foreign Affairs, informing him that His Majesty's Government, while deeply regretting the attitude maintained by the Netherlands Government, do not propose for the present to continue the discussion of the question at issue.

I am, etc.

A. J. BALFOUR.

No. 18

Sir W. Townley to Mr. Balfour

The Hague, October 23, 1917.

SIR: In compliance with your instructions, I duly communicated to the Netherlands Minister for Foreign Affairs a copy of your dispatch of the 8th ultimo in regard to the refusal of the Netherlands Government to admit defensively armed merchant vessels into Dutch ports. I at the same time informed his Excellency that His Majesty's Government, while deeply regretting the attitude maintained by the Netherlands Government, do not for the present propose to continue the discussion of the question at issue.

I have now the honor to transmit copy of M. Loudon's reply containing the comments of the Netherlands Government on the various points raised in your above-mentioned dispatch and adhering to the view expressed by His Majesty's Government that a further discussion of this question would present no advantage.

I have, etc.

W. TOWNLEY.

Inclosure in No. 18

M. Loudon to Sir W. Townley
(Translation)

The Hague, October 22, 1917.

SIR: In your note of the 13th September last your Excellency was good enough to communicate to me a copy of a note from the Secretary of State for Foreign Affairs, dated the 8th September, respecting the admission of armed merchant vessels of the belligerents into Netherlands ports, which contained the reply to the note which I had addressed to you on the 15th August last.

In that note I had again set out the reasons which made it the duty of the Queen's Government to maintain the decision which they had taken in the matter at the beginning of the war. Since the Secretary of State refrains from replying to it, so far as the main question is concerned, I may restrict myself to making the observations suggested to me by the two particular points raised by Mr. Balfour.

In the first place, I must point out that the British Government have not justified their assertion that the Queen's Government are the only neutral government to consider that there are serious reasons against admitting armed merchant ships of the belligerents into neutral ports.

Of the three countries (Denmark, Norway, and Sweden) of which the geographical position in relation to the theater of war can in a measure be compared with that of the Netherlands, two, Denmark and Sweden, have not expressed their views on the subject. The Government of the United States of America admitted such vessels, subject to certain restrictions, into their ports. But the publications of the Department of State show that that government entertained grave doubts as to whether any admittance of such ships was not incompatible with a strict observance of the duties of neutrality. Thus it appears from the paper "European War," No. 2, pp. 41-42, that in order to remove the preoccupation of the American Government in the matter, the British Government assented to the British armed merchant ship *Merrion*, which had arrived in a port in the United States, disembarking her guns before putting to sea. It is known, moreover, that for the same reason no British armed merchant ship called at a port in the United States for a period of about a year after the case of the *Merrion* and that of the *Adriatic*, which is also referred to in the above-men-

tioned document (pp. 41-42). The same paper contains (pp. 45-46) a letter in which the United States Government, while fully admitting that a merchant ship has the right to arm for purposes of self-defense, make it known that they disapprove of a practice which compels a neutral to express an opinion as to the intended use of a vessel, and thus to incur responsibility in the event of this opinion subsequently proving wrong. In these circumstances, it is all the more difficult to maintain that the Queen's Government have wrongly interpreted the words "my government is impressed with the reasonableness of the argument that a merchant vessel carrying an armament of any sort, in view of the character of submarine warfare and the defensive weakness of undersea craft, should be held to be an auxiliary cruiser and so treated by a neutral as well as by a belligerent government," which show clearly that in the opinion of the United States Government an attitude of the kind adopted by the Netherlands since the outbreak of the war was reasonable.

In the second place, the Secretary of State affirms that the Queen's Government have not even attempted to contest the argument of the British Government setting aside the applicability of the rule that a neutral Power should not modify its neutrality regulations in the course of a war except to render them more strict. The British Government consider that the Queen's Government could rightly neglect this rule on the ground that the Second Peace Conference only laid it down on the supposition that belligerents would conduct war in a manner conforming to international law.

I venture to recall to your Excellency that I have already contested this argument, especially at the end of my note of the 15th August. I am not aware that the conventions of The Hague or general international law contain a rule, or the records of the Second Peace Conference even an indication, that a neutral state should alter its neutrality regulations in favor of one belligerent party because of the manner in which his opponent conducts war. As for the fact that the warlike operations of one belligerent injure the rights and interests of the neutral, it is for the neutral to decide without any intervention on the part of the other belligerent, whether the fact gives him occasion to depart from the state of neutrality which he has announced.

Agreeing with the view of the British Government that the discussion of this question should be closed, I have, etc.

J. LOUDON.

No. 19

Mr. Balfour to Sir W. Townley

Foreign Office, November 14, 1917.

SIR: I have received your dispatch of the 23d ultimo, inclosing a copy of a note from the Netherlands Minister for Foreign Affairs replying to the observations contained in my dispatch of the 8th ultimo with regard to the refusal of admittance of defensively armed merchant ships into Dutch ports.

I had not intended to extend the correspondence on this subject, seeing that all the arguments by which the Netherlands Government have attempted to show that there is a duty upon them to exclude such vessels from their ports have already been exhaustively discussed. It is necessary, however, to make a few observations in reply to M. Loudon's last note, since it attributes to His Majesty's Government an attitude which they have never taken up, and it is essential that this should not pass uncorrected.

His Majesty's Government have never asserted, as alleged by the Minister for Foreign Affairs, that no neutral state but the Netherlands considered that there were serious reasons against the admission into neutral ports of merchant ships of the belligerents carrying defensive armament. They have merely pointed out that "during the present struggle no other neutral government (except perhaps that of President Carranza in Mexico) has found itself obliged by the rules of international law to deny the use of its ports to such vessels," and that "no state has hitherto thought it necessary to adopt the attitude which the Netherlands Government are adopting now." These statements were and are perfectly correct, and all that M. Loudon has said in reply to them leaves them standing in every particular. The Minister for Foreign Affairs attempts to defend the attitude of his government by reference to some hesitation which was at one time expressed by the United States Government when neutral. His Majesty's Government desire nothing better than the adoption by the Netherlands of the doctrine and practice of the United States as neutrals in this matter.

I need say little in reply to the concluding passages of M. Loudon's note. His Majesty's Government have, of course, never contended that there is any rule of international law which compels the Netherlands Government to reverse their policy. They have merely con-

tended, and I trust have established, that the Netherlands rule is unnecessary and unneutral, and that the government is under no obligation to maintain it. The practice of the numerous other neutral governments who have had to consider the question during the present war shows that, with the doubtful exception of General Carranza's Government, they one and all share the view that action upon the lines taken by the Netherlands Government is not incumbent upon a neutral state.

I request that you will communicate the foregoing remarks to the Minister for Foreign Affairs.

I am, etc.

A. J. BALFOUR.

APPENDIX

Article 4 of Netherlands Proclamation of Neutrality

(Translation.)

"Warships of a belligerent and vessels of a belligerent assimilated to warships shall not be admitted within the jurisdiction of the State."

DIPLOMATIC CORRESPONDENCE BETWEEN THE NETHERLANDS AND THE ENTENTE ALLIES REGARDING THE ADMISSION OF ARMED MERCHANT VESSELS TO DUTCH PORTS¹

[The correspondence with Great Britain was also published by that government and is reproduced in this Supplement from the British Parliamentary Paper. The following collection contains the correspondence, published by the Netherlands, with other governments, with one additional note from Great Britain not included in the British Paper. — Ed.]

Note from the British Legation to the Netherland Ministry for Foreign Affairs

His Britannic Majesty's Chargé d'Affaires is instructed to call the immediate attention of the Netherland Government to the well-known rules of international law embodied in The Hague Convention No. 13 of 1907. A neutral government is bound by these rules to prevent the arming or fitting out or departure from its jurisdiction of any merchant vessel which is intended to be employed for warlike purposes.

As Germany claims the right to convert merchant vessels into ships of war on the high seas, neutral governments are called upon to exercise the greatest vigilance to prevent the departure of any German vessel capable of being so converted if there are good grounds for suspecting her intentions. Reasonable grounds for suspicion would exist if there were signs of shipping ammunition, concealing arms and ammunition on board, mounting of guns, taking unnecessarily large quantity of coal, and especially painting ship a warlike color or refusing to take passengers on board if the vessel is fitted for passenger accommodation.

A neutral Power renders itself responsible for any damage to shipping, trade, and other interests which may be caused by such vessels thereafter if it does not exercise due diligence in preventing the departure in such circumstances.

¹ Diplomatieke Bescheiden Betreffende de Toelating van Bewapende Handelsvaartuigen der Oorlogvoerenden en Onzijdigen Biennen het Nederlandsche Rechtsgebied, Augustus, 1914 - November, 1917. 's Gravenhage — Algemeene Landsdrukkerij — 1917.

His Majesty's Chargé d'Affaires is instructed to express the confident hope of His Majesty's Government that if the Netherland Government have not already issued the necessary orders to prevent any abuse of their neutrality, they will do so immediately.

A full investigation by the local authorities should be made of any vessels whose movements or proceedings are of a nature to give rise to suspicion and such vessels should be refused clearance and prevented from leaving national waters until this has been done.

His Majesty's Chargé d'Affaires is also directed to instruct all British consular officers to report immediately to His Majesty's Legation any suspicious cases, and at the same time to warn the local authorities of the consequences which might ensue from any negligence on their part.

The Hague, 11th August, 1914.

Note from the German Legation to the Netherland Ministry for Foreign Affairs

According to information which has reached the Imperial Government, the English steamer *Brussels* was, during its stay at Rotterdam early in the year, armed with guns placed on the lower deck.

Many English merchant ships are similarly armed for the purpose of offering armed resistance to German warships.

Such armed resistance is contrary to the law of nations and would give warships the right to sink the boat in question, together with its crew and the passengers on board. It would seem to be very doubtful whether such boats might demand admission to the ports of a neutral state. In any event, they should not enjoy more favorable treatment than that accorded by such a state to warships intended for legitimate naval warfare. They should therefore at least be subject to the laws enacted by that state with regard to the length of time belligerent warships shall be allowed to remain in its ports.

The Imperial Government, in consideration of the foregoing facts, has the honor to address the Queen's Government, with the request that it take such action as is necessary, so that armed merchant ships in the ports of the Netherlands shall be treated in the same way as vessels of war.

The Hague, August 2, 1915.

Note from the Netherland Ministry for Foreign Affairs to the German Legation

In reply to the note from the Imperial German Legation of August 2d last, J. No. 4629, the Royal Ministry of Foreign Affairs has the honor to inform the Legation that the admission of belligerent armed merchant ships to the ports, roadsteads, and territorial waters of the Netherlands is governed by the rules relative to the admission of belligerent warships.

Belligerent armed merchant ships come within the classification of "vessels assimilated to belligerent warships," provided for in Article 4 of the Netherland proclamation of neutrality, dated August 6, 1914.

The Queen's Government does not share the opinion expressed in the notice of the Imperial Legation that armed resistance is contrary to the law of nations. It believes, on the contrary, that that law permits belligerent merchant ships to defend themselves against enemy warships.

Nevertheless a belligerent merchant ship which shows fight in order to escape from being captured or destroyed by a warship of the enemy commits an act of war.

The Queen's Government was of the opinion that the strict neutrality which it had resolved to observe from the very beginning of the war imposed upon it the duty of assimilating any belligerent merchant ship, armed for the purpose of committing an act of war in case of need, to belligerent warships in the terms of the neutrality proclamation.

The neutrality proclamation prohibits, as a general rule, belligerent warships, as well as vessels assimilated to them, from entering the ports, roadsteads, and territorial waters of the kingdom (in Europe). This rule is subject to exceptions only in case of damage or of stress of weather at sea.

Therefore no belligerent armed merchant ship has been admitted to a port of the kingdom during the war.

As for the British steamer *Brussels*, mentioned in the Imperial Legation's note, this vessel was subjected to a thorough special inspection on March 30th last by the Netherland authorities at Rotterdam. This inspection showed conclusively that the vessel was not armed.

The Hague, September 7, 1915.

Note from the French Legation to the Netherland Ministry for Foreign Affairs

It appears from the exchange of views which took place between the Royal Government and the Government of the Republic in the month of December last, on the subject of the admission of merchant ships armed for self-defense to Netherland ports, that the Royal Ministry of Foreign Affairs considers such admission contrary to the Netherland neutrality declaration of August 1, 1914, by virtue of which merchant ships armed for self-defense are subject to the same rules as vessels of war.

It would not, however, seem to be possible that the Netherland neutrality proclamation could have reached any decision in this respect, and have enacted, for example, that armed merchant ships would be assimilated to warships; for the question of armed merchant ships, as it presents itself at the present day, is a brand-new question, or at least one which, it would appear, should not have arisen in international relations since the Treaty of Paris of 1856. It is the methods of submarine warfare, the torpedoing of innocent vessels, the destruction of their crews and cargoes, that have revived the insecurity at sea which formerly prevailed. Under these conditions governments would be seriously failing in their duty of protection toward the sailors of their merchant marine and the passengers sailing under their flag if they refused, contrary to the traditions formerly followed in all countries, to allow merchant ships the means of defending themselves on the high seas. To prohibit them from entering ports would be equivalent either to denying them this right, or to refusing to allow them to have intercourse with countries exercising this right. This would be an unfriendly attitude, which it is certainly neither the desire nor the intention of the Royal Government to assume.

It should be added that the new conditions with which we are confronted are the immediate and direct consequence of the "new decisions" which were communicated to the Royal Government by the German Legation at The Hague on January 31st and which justified the Royal Government's protest against the new régime which these "decisions" had the effrontery to establish, "in violation of the law of nations and, eventually, of the laws of humanity."

We are, therefore, warranted in believing that the question of armed merchant ships could not have been considered at the time when

the Netherland neutrality declaration was drawn up and that the Royal Government is still entirely free to decide that question.

Moreover, according to the official documents which it has published, the Royal Government does not dispute the legality of arming vessels, as practiced. It states that this question belongs to the domain of international law, while the question of admitting armed vessels to neutral ports belongs to the domain of neutrality and can be settled by each country as its interests demand.

In our opinion, this contention is in conflict with the principles of international law and, in particular, appears to be contrary to the decisions of the Second Hague Conference.

If the conditions or restrictions with regard to admission imposed upon belligerent vessels by a neutral Power are indeed a matter for domestic legislation on neutrality, it is nevertheless on condition that these conditions or restrictions do not violate international law. Now the question whether or not a foreign vessel has the character, the rights, and, as in the present argument, the obligations of a warship is a question of an international nature governed by international law. The report accompanying Hague Convention VII of 1907 brings this point out: "Certain rules of neutrality," says the report, "— sometimes local, such as passage through certain straits; sometimes general, such as the limit of stay or of victualing in neutral ports — apply only to warships" (*Actes de la Seconde Conférence de La Haye*, Vol. 1, p. 240). And Convention VII stipulated as a corollary of the Declaration of Paris of 1856 that there should be no other warships than the vessels of the naval fleet (*ibid.*, p. 244), and that, in order to be regarded as a warship, a vessel must be under the direct authority, immediate control, and responsibility of the state, its captain must be in the service of the state, and its crew must be under military discipline.

Therefore, only merchant ships converted into warships according to the provisions of the Seventh Hague Convention of October 18, 1907, may be assimilated to warships, and the assimilation of armed merchant ships to warships can not be admitted on any grounds in international law. It could not be otherwise, for such an assimilation would have the effect of giving purely and simply to merchant ships armed for self-defense the same rights as to warships. This would imply the reestablishment of privateering by the act of the neutral Powers that should adopt this point of view, thus assuming the heaviest of responsibilities.

Hence the Legation of France is pleased to hope that the Royal Government will see in the admission of warships armed for self-defense both a strict and correct duty of neutrality toward belligerents, and a recognition of principles that have long been universally recognized and codified by the law of nations.

The Hague, March 15, 1917.

Note from the Netherland Ministry for Foreign Affairs to the French Legation

The institution of armed merchant ships did not arise in the course of the present war. It was inaugurated by the British Government, in spite of the fact that at the Second Hague Peace Conference it was regarded as excluded (see the observations of Captain Ottley, delegate of Great Britain, and Captain Behr, delegate of Russia, Acts, Vol. III, p. 1010). Consequently the Queen's Government had, in the month of May, 1913, submitted to the commission which it had appointed to draw up the Netherland proposals with regard to the program of the Third Peace Conference, the question as to what treatment should be applied to such vessels in time of war and in time of peace.

In its report presented on March 28, 1914, the commission expressed the opinion that armed merchant ships of a belligerent Power should not be admitted to the dominion of the Netherlands except on the same footing as belligerent ships of war.

When war broke out, the Queen's Government forbade, as a general rule, with certain exceptions, the presence within its jurisdiction of belligerent warships and vessels assimilated thereto. From the outset it has, in conformity with the opinion of the aforesaid commission, included in this latter classification merchant ships of the belligerent Powers that are provided with an armament and therefore suitable for committing acts of war.

Indeed, a state in the very peculiar geographical situation in which the Netherlands finds itself with respect to the countries at war could insure respect for the neutrality of the dominion over which it has jurisdiction only by forbidding not only warships but all armed vessels as well from entering this dominion. This exclusion made the country on the one hand secure against any masked attack. It prevented, on the other hand, the commission of hostile acts between belligerents in Netherland territorial waters. Finally, it offered each belligerent

the most effective guarantee that his adversary would not succeed in utilizing some part of this dominion as a base of naval operations.

The rule enacted by the Queen's Government is therefore the logical consequence of the fundamental principles of neutrality, notably of the principle sanctioned by Article 5 of Hague Convention XIII of 1907.

The French Government, however, disputes its legality. Its argument may be summed up as follows: If the conditions or restrictions with regard to admission imposed upon belligerent vessels by a neutral Power are a matter for domestic legislation on neutrality, it is nevertheless on condition that such legislation shall not violate the law of nations. Now it follows from Hague Convention VII of 1907 that the only vessels upon which the law of nations confers the character of warships are, aside from warships proper, merchant ships converted into warships in conformity with the provisions of the aforesaid convention. Consequently the assimilation of armed merchant ships to warships would be contrary to the law of nations. To assimilate vessels that do not fulfill the conditions of the aforesaid convention to warships would have the effect of giving these vessels the rights of warships, and this would be equivalent to reëstablishing privateering.

The Queen's Government must first of all observe that it has not in the official documents which it has published made a distinction between the *law of nations* and the law of neutrality, as the French Government assumes, but between the *law of war* and the law of neutrality, both of which form a part of the law of nations, but are governed by different principles by reason of the totally different character of the matter falling within the province of each of these branches of the law of nations.

The British Government, which, at the very beginning of the war, informed itself with regard to the treatment which the Queen's Government would apply to armed merchant ships, had contended in the month of June, 1915, just as the French Government now contends, that merchant ships armed solely for self-defense do not lose their character as merchant ships, since, according to the law of nations, a belligerent merchant ship is permitted to defend itself against an attack on the part of an enemy warship. In its opinion, armed merchant ships might, therefore, be admitted by neutral Powers to their waters on the same footing as other merchant ships.

The Queen's Government replied that it had no hesitation in admitting the right of merchant ships to arm themselves; but it added that

in its opinion it does not follow that armed merchant ships of belligerents should be admitted to the ports, roadsteads, and territorial waters of a neutral Power, inasmuch as this latter question belongs to the domain of the law of neutrality, while the question whether belligerent merchant ships have the right to defend themselves against enemy warships in order to escape capture or destruction belongs to the province of the law of war.

There is involved a question of a fundamental distinction in the established law of nations, which has effect not only in codified rules, but also in matters which have not yet been settled in detail by conventional stipulations.

Therefore the legality of the act of a belligerent merchant ship which defends itself against a warship of the enemy does not impose upon neutral states the duty of admitting to their dominions merchant ships armed for self-defense any more than the legality of the acts of war committed by belligerent warships imposes upon those states the obligation of admitting these warships to their dominions.

The Queen's Government fully shares the view of the Government of the Republic that it is not lawful for a state to confer the character of a warship upon a vessel which has not that character according to the provisions of the law of nations. Moreover, it is not conferring this character upon armed warships. It is confining itself to "assimilating" them to warships, in so far as their admission to its waters is concerned. The French Government can not fail to recognize the fact that it is only necessary to put the question whether a declaration of neutrality confers upon vessels therein designated as "vessels assimilated to warships" the character of warships according to the law of nations, to answer it in the negative. For any interpretation to the opposite effect would be fundamentally wrong, in that it would attribute to such a declaration a scope beyond the sphere of its natural application.

What the Netherland neutrality declaration enacts is a rule that certain classes of vessels, *which are not* warships according to the law of nations, but whose presence within the dominion over which the Netherlands has jurisdiction would be calculated to compromise the security and neutrality of that dominion, shall be subject to the same treatment as ships of war, namely, that their presence will not be tolerated. It confers upon them no other right than that of being admitted to this dominion in the cases in which warships also are admitted thereto.

If privateering were reestablished, it would certainly not be by the act of the Powers that refuse to receive in their dominion vessels which, though they do not fulfill the conditions required of vessels of war, are nevertheless provided with an armament that enables them to commit acts of war.

No rule of the law of nations denies to neutral states the right to proclaim, with regard to belligerent vessels other than warships, such rules as are necessary to insure respect for the dominion over which they have jurisdiction, namely, that such vessels shall be subject to the same treatment as warships.

Hague Convention VII governs the legal status of auxiliary cruisers duly incorporated into the navies of belligerents. By virtue of the said convention, these vessels are not simply assimilated to warships, but by reason of their conversion they actually become warships and can not be treated as privateers. On the other hand, the convention does not deal with the legal status of vessels which can not claim to be warships, but which are none the less suitable for war operations.

The passage in Mr. Fromageot's report, stating that certain rules of neutrality, sometimes local, such as passage through certain straits, sometimes general, such as the limit of stay or of victualing in neutral ports, apply only to warships, could not therefore be construed in the sense that states which have remained outside of the war have no duties of neutrality with respect to vessels which do not fulfill the conditions required in order to acquire the right to be called warships. By placing this construction upon the passage in question, we would not be taking into account Article 5 of Convention XIII, which prohibits belligerents from using neutral ports and waters as bases of naval operations against their enemies.

It follows from the foregoing that Convention VII in no way affects the rights and duties of neutral Powers with regard to belligerent vessels, which, though they can not be considered warships, are adapted for military purposes. Such vessels are subject to Convention XIII and the general principles of neutrality.

The Queen's Government is perfectly aware of the perilous situation in which French merchant ships find themselves when they are not convoyed by warships and — like neutral vessels — have no defense against the attacks of German submarines. It understands that because of this danger certain of them will not continue to visit regularly the Netherland ports which they have been accustomed to frequent.

It would regret exceedingly this consequence, so injurious to the interests of both countries, of its rule of neutrality.

But the considerations which determined it in the month of August, 1914, to include belligerent armed merchant ships in the category of vessels assimilated to warships in the terms of its neutrality declaration still have their full force.

Besides, a change in its attitude at the present time would be especially serious, because it would involve the revocation of a rule of neutrality laid down at the very beginning of the war and duly notified to both belligerent parties.

Nothing could be more contrary to the very principle of neutrality than to repeal in the course of a war and at the request of one of the belligerents a rule of neutrality which, as the result of events, whatever they may be, is found to be to the disadvantage of that belligerent alone. Such a revocation would indisputably take on the character of a favor and would therefore be incompatible with impartiality which is the distinctive feature of neutrality.

The Queen's Government flatters itself that the Government of the Republic, after taking note of the foregoing, will be convinced that the attitude of the Netherlands on this point is not inspired by any unfriendly intention toward France or her allies.

The Hague, April 26, 1917.

*Note from the American Legation to the Netherland Ministry for
Foreign Affairs*

The Hague, March 13, 1917.

EXCELLENCY:

I have the honor to inform your Excellency that inasmuch as American vessels which are departing from the United States for the prohibited zones are being armed for self-protection, I have been instructed by my government to ascertain from your Excellency whether vessels of this nature will be permitted by the Royal Netherlands Government to enter the ports of Holland and depart therefrom without hindrance.

I shall be glad therefore if your Excellency will kindly inform me, if possible, of the action which Her Majesty's Government intends to take in connection with this matter.

I avail, etc.

(Signed) MARSHALL LANGHORNE.

*Note from the American Legation to the Netherland Ministry for
Foreign Affairs*

The Hague, March 17, 1917.

EXCELLENCY:

I have the honor to refer to my communication addressed to your Excellency on the 14th instant, regarding the treatment of armed neutral vessels which may enter the ports of the Netherlands and, at the request of my government, to ask that your Excellency will kindly inform me if, in connection with the treatment accorded to the vessels in question in Dutch ports, it is the intention of Her Majesty's Government to draw any distinction between vessels which are armed privately by the respective owners and American merchant ships which carry an armed guard placed on board for protection by the Government of the United States.

I avail, etc.

(Signed) MARSHALL LANGHORNE.

*Note from the Netherland Minister for Foreign Affairs to the American
Chargé d'Affaires*

The Hague, March 22, 1917.

MR. CHARGÉ D'AFFAIRES:

In reply to your favors of the 14th and 17th instant, I have the honor to inform you that by virtue of the Royal decree of July 30, 1914 (*Journal Officiel* No. 332), the presence of warships or vessels assimilated thereto of foreign Powers in Netherland territorial waters and interior waters is not permitted.

Armed merchant ships come within the category of vessels assimilated to warships, without distinction as to whether the owner of the vessel provided it with an armament on his own authority, or whether the foreign government has placed a gun crew on board the vessel for its protection.

The Royal decree does not apply to the colonies of the Netherlands.
Kindly accept, etc.

(Signed) J. LOUDON.

*Note from the American Legation to the Netherland Ministry for
Foreign Affairs*

The Hague, April 2, 1917.

EXCELLENCY:

With reference to your Excellency's note of March 22, 1917, No. 11459, regarding the regulations applicable to armed merchantmen in the territorial waters of the Netherlands, I have the honor to ask at the instance of my government, that you will be so good as to inform me if the above-mentioned regulations apply to armed merchant vessels of neutral countries as well as to those of belligerent countries.

I venture to add that the Government of the United States assumes that the position of Her Majesty's Government does not refer to armed merchant ships of neutral countries which may enter Dutch ports as merchant vessels, and accordingly will be glad to receive a confirmation of this view from the Government of the Netherlands.

I avail, etc.

(Signed) MARSHALL LANGHORNE.

*Note from the Netherland Minister for Foreign Affairs to the American
Chargé d'Affaires*

The Hague, April 14, 1917.

MR. CHARGÉ D'AFFAIRES:

In reply to your note of the 2d instant, I have the honor to inform you that the Royal decree of July 30, 1914, cited in my letter of March 22d last, No. 11459, prohibits, as a general rule, the presence of warships or vessels assimilated thereto of any foreign Power in the territorial waters or interior waters of the Netherlands. This Royal decree does not apply to the colonies.

The neutrality declaration substituted therefor special provisions, in so far as belligerent warships or vessels assimilated thereto are concerned. According to the terms of the said declaration, the presence of any warship or vessel assimilated thereto of a belligerent Power shall not be tolerated in the jurisdiction of the state, including the colonies and overseas possessions, except in the cases provided for in Article 5. The sanction of this provision is formulated in Article 3,

which prescribes internment in case of infraction of the rules contained in Articles 2, 4, and 7.

Armed merchant ships, in so far as the application of these prescriptions is concerned, are included in the category of vessels assimilated to warships.

It follows from the foregoing that the presence of armed merchant ships of a belligerent Power is prohibited throughout the entire jurisdiction of the state, while such vessels of neutral Powers are barred from such jurisdiction only in so far as the dominion of the kingdom in Europe is concerned.

Kindly accept, etc.

(Signed) J. LOUDON.

GENERAL AGREEMENT BETWEEN THE UNITED STATES
AND NORWAY RELATING TO EXPORTS ¹

April 30, 1918

The War Trade Board, an administrative agency empowered by executive order of the President to license exports from the United States, and the special representative of the Norwegian Government, have jointly considered the commercial relations between the United States and Norway, during the continuance of the present war, for which period this agreement shall continue, subject to termination by either party at the expiration of one year from date and at any time thereafter by either party upon giving three months notice of intention to terminate the same.

With the knowledge of their respective governments, the War Trade Board and the special representative of the Norwegian Government have agreed as follows:

ARTICLE I

1. The powers of the War Trade Board are administrative and pertain wholly to the Nation's domestic or internal affairs.

2. The said War Trade Board agrees that Norway shall receive at ports of origin her estimated needs of the articles enumerated in the several schedules annexed in so far as the same, first, are not required for consumption in the United States, and in so far as the exportation thereof will not so reduce available supplies as to prevent the rationing of the nations associated with the United States in the war; and, second, will not, directly or indirectly, be exported to any country or ally of any country with which the United States is at war.

3. In consideration of the stipulations hereinafter set forth, said War Trade Board agrees to license the export (and in so far as the United States is concerned, free of license charges or export tax), or facilitate the obtaining, as the case may be, of the estimated requirements of Norway enumerated in the Schedules A, B, C, D, E, and F, hereto annexed and made a part hereof. Norway's genuine require-

¹ Official Bulletin, May 27, 1918.

ments for home consumption of articles not mentioned in these schedules shall be met as far as possible.

4. If sufficient quantities to supply the estimated needs are not deemed available for exportation from the United States at the time required, export licenses shall be granted for as great a part thereof as is available, compatible with the rules and regulations set forth in this agreement; and said Board will grant licenses for bunker fuel and ship's stores to vessels transporting the said commodities to Norway from the United States or other countries.

The War Trade Board has been assured by the governments of the Powers associated in the war with the United States and with which it is acting in full accord in these matters that vessels carrying supplies to Norway in compliance with the present agreement shall not in any way be hindered, held, or seized on the part of the Allies, subject however, to the exercise by the Allies of the right of visit and search. The Governments of the said Powers associated with the United States will in every way facilitate the transportation to Norway of all such supplies.

The Norwegian vessels specially reserved for and when actually engaged in carrying supplies to Norway under the present agreement shall not be subject to bunker regulations or other restrictions and shall receive by license bunker fuel and ship's stores necessary to carry such supplies to Norway.

ARTICLE II

In consideration of the granting of such export and bunker and ship's stores licenses for the exportation from the United States and other countries to Norway of the articles enumerated in the annexed schedules the Norwegian Government agrees to the following stipulations:

1. The commodities enumerated in the Schedules *A, B, C, D, E, and F*, annexed, for which licenses may be granted, are based upon the total estimated import needs of Norway for each 12 months' period during the continuance hereof, and, since these commodities are to be withdrawn from already restricted world supplies, it is expressly understood that all supplies Norway is enabled to import shall as, and when imported, be deducted from the commodities set forth in said schedules.

Owing to the fact that supplies in the United States are restricted, and as an inducement for Norway to obtain elsewhere a part of her

requirements and thus save in the use of tonnage, it is understood that in reckoning imports pursuant to the provisions hereof each ton of the commodities enumerated in the schedules annexed, obtained from Russia as constituted before the war, shall be counted as the equivalent of one-half ton obtained elsewhere.

The importation into Norway of the articles described in the said annexed schedules is for consumption in Norway and the quantities thereof which shall be licensed (notwithstanding the aggregate quantities set forth in the schedules annexed) shall at all times be determined by the actual internal requirements of Norway, with due regard to existing stocks and to the importation into Norway from countries where the license of the Board is not required of like articles, or articles capable of use as substitutes for those described in the annexed schedules.

No article imported into Norway under the provisions hereof shall be exported by Norway to other than "Allied" destination, nor shall any article released by such importation be exported to other than "Allied" destination.

2. Within sixty days from the execution of these presents, full statistics shall be obtained by the Norwegian Government and furnished to the accredited representative of the War Trade Board, and to accredited representatives of the governments associated with the United States in the war, showing in detail the amounts of existing stocks in Norway of all articles enumerated in the annexed Schedules *A, B, C, D, E, and F*, and also showing the locations and ownership of such stocks. And while this agreement continues in effect complete statistical information shall be furnished monthly from the date hereof, to the accredited representative of the War Trade Board, in regard to all exports from and imports into Norway. The statistics which shall be furnished shall be forthcoming not later than thirty days after the period to which they shall have reference, and shall state in detail the name, description, and quantity, the country of exportation and country of destination of each commodity imported and exported, and shall include statistics in regard to trade with both neutrals and belligerents. If any question shall arise in respect to the observance of any restrictions of, or prohibitions against, exports, full particulars shall, upon request, be furnished to the War Trade Board or its accredited representative in regard thereto, and the Norwegian Government will use every effort within its power in regard to the effective enforcement of such prohibitions, regulations, and restrictions. To the end that such

questions may arise as little as possible, the Norwegian Government is willing that the War Trade Board should require from importers in Norway, in return for the granting of licenses, such undertakings as to the disposal of the goods imported as may be in accordance with the terms of this agreement. The Norwegian Government shall have an opportunity to discuss with the representative of the War Trade Board the form of such undertakings. The War Trade Board reserves the right to refuse to accept guaranties which they have reason to believe are not offered in good faith. Such cases are to be explained to and discussed with the Norwegian branch associations.

3. Imports of the articles enumerated in the annexed schedules shall be distributed as evenly as possible throughout the year with due regard to seasonal requirements.

Norway is entitled to have at all times stocks of articles set out in schedules corresponding to at least three months' actual needs.

The right is reserved to the War Trade Board to determine the distribution of the allotments for export from the United States both as to time and port, but due consideration shall be given to any representations of the Norwegian Government that may from time to time be made in regard thereto. And the Norwegian Government will from time to time freely consult with the United States and its associates as to the oversea sources from which the articles which are to be imported into Norway shall be obtained.

4. All food and feed stuffs included within the schedules of estimated requirements obtained from the United States shall be purchased through, or with the approval of, the Food Administration, and the vessels engaged in carrying such tonnage shall receive the same at any Atlantic or Gulf coast port that may be designated by said Food Administration. The Norwegian Government will utilize the services of the Interallied Wheat Executive as their sole agent for the purchase of grain and flour everywhere except in the United States and European countries, and vessels engaged in carrying such grain and flour shall receive the same at any port outside the United States that may be designated by said executive.

The War Trade Board assures the Norwegian Government that the said Food Administration and the Interallied Wheat Executive will use every effort within their power to assist Norway in securing such commodities.

5. No articles, including those mentioned in Article III of this agreement, which are obtained, grown, or produced, in whole or in part,

by the use of any implements, machines, machinery, coal, gasoline, kerosene, oils, lubricants, or other auxiliaries or articles hereafter imported from the United States, or hereafter imported from any country associated with the United States in the war, or whose importation shall be facilitated by the War Trade Board's license for bunker coal and ship's stores, or by the license or authority of any country associated with the United States in the war, shall be directly or indirectly exported from Norway to any country or ally of any country with which the United States is at war (including territory occupied by the military forces of such country). The foregoing shall be taken also to include any country, whether previously Allied or neutral, all or a portion of whose territory is now occupied by Germany or her allies, excepting France, Italy, and Belgium.

6. No articles, including those mentioned in Article III of this agreement, which are obtained, grown, or produced, in whole or in part, by the use of any implements, machines, machinery, coal, gasoline, kerosene, oils, lubricants, or other auxiliaries or articles hereafter imported from the United States or hereafter imported from any country associated with the United States in the war, or whose importation shall be facilitated by the War Trade Board's license for bunker coal and ship's stores, or by the license or authority of any country associated with the United States in the war, shall be directly or indirectly exported from Norway to any neutral country until after Norway shall have procured an agreement from such neutral country, with proper security for the enforcement thereof, that such commodities so exported shall not be directly or indirectly reexported to Germany or her allies, nor shall any commodities which such articles so exported may serve to release be exported to Germany or her allies. The security mentioned above will be satisfactory to the United States as follows:

For Switzerland, anything going through the S. S. S.

For Holland, anything exported through the N. O. T.

For Denmark, anything exported through the Danish associations.

For Sweden, anything exported by means of *Handels Kommission* certificate.

Each of the foregoing associations will be satisfactory to the United States in the case of all articles which are included in the agreement between the respective importing association and the governments of the associates of the United States, but in respect of articles not so

covered Norway will not allow their export to any neutral country which does not effectively prohibit the export of such or similar articles or articles made from or by means of or released by them in any form whatsoever, without prior consultation with and the written assent of the representative of the War Trade Board.

In case the Swedish agreement with the United States and/or its associates in the war, if and when made, shall designate some other *kommission* or association, such designation shall be substituted for the *Handels Kommission* in this agreement.

ARTICLE III

In consideration of the fact that Norway's requirements of necessities will be secured by the United States and the Powers associated with her in the war, and in order to give the United States and said Powers opportunity to buy considerable quantities of Norway's exportable surplus, the Norwegian Government agrees to the following restrictions of her exports to the Central Powers or their allies:

1. Norway will not export to the Central Powers or their allies foodstuffs of any kind except fish and fish products. Fish and fish products may be exported in quantities not to exceed 48,000 tons per annum, export weight.

The term "fish" shall be taken to include all categories of fish, both salt water and fresh water, including shellfish and marine animals, and the term "fish products" shall be taken to include the products of all fish as herein defined, whether fresh, salted, dried, smoked, canned, or preserved in any way whatsoever, but there shall be no export to Germany or her allies of any oil or derivations thereof, of fish or of any marine animals. The quantity of fish and fish products which may be exported to Germany and her allies shall not exceed 15,000 tons in any three months and the amount which such export is more or less than 12,000 tons in any quarter must be deducted from or added to 12,000 tons the following quarter.

The export of each class of fish and fish products is to be made in the form in ordinary commercial use in the past, but the Norwegian Government agrees that the export of "Kilpfisk" (*i.e.*, dried salted fish) and "Torfisk" (*i.e.*, dried fish) shall not exceed 8,000 tons a year in all, and canned fish goods shall not exceed 15,000 tons a year.

While this agreement is in force no fish caught by Norwegian boats shall, without the written consent of the Norwegian Government,

be landed elsewhere than in Norway, nor shall any such fish be transferred at sea except in collecting vessels, which shall be obliged to land their cargoes in Norway only.

2. The export per annum of the following articles from Norway to the Central Powers and their allies shall not exceed:

(a) Calcium carbide, 10,000 tons.

(b) Calcium nitrate, 8,000 tons.

(c) Ferro-silicon, 2,000 tons.

(d) Iron ore, 40,000 tons, no part of which shall be in the form of pyrites, nor any ores containing manganese. Besides this quantity to be exported of iron ore, there may also, as compensation, be exported a quantity of same containing iron equal to the amount of iron contained in the iron and steel goods exported to Norway from the Central Powers or their allies, plus 5 per cent for wastage. In no event, however, shall the aggregate quantity of iron ore exported by Norway under this clause exceed for any 12 months the amount exported in 1917, as per schedule attached.

(e) Zinc, 1,000 tons. Besides this quantity to be exported of zinc there may also, as compensation, be exported a quantity of same containing an equal amount of zinc to that contained in goods exported to Norway from the Central Powers or their allies, plus 5 per cent for wastage. In no event, however, shall the aggregate quantity of zinc exported by Norway under this clause exceed the amount exported in 1917 as per schedule attached.

(f) Aluminum, 40 tons.

The export of the foregoing articles, except by way of compensation, shall be distributed as evenly as possible over the year and the export of no article shall exceed half the annual quantity during the first six months.

3. Copper in the form of crude or refined copper or pyrites cinders on condition and to the extent that Norway shall receive within 60 days from the date of such export copper goods, or goods containing copper, the copper content of which shall be equal to the copper so exported less 5 per cent for wastage. In no event shall the aggregate quantity of copper (in whatever form it may be) exported by Norway under this clause exceed 200 tons. Nothing herein contained shall be construed to authorize or permit the exportation to Germany or her allies of pyrites in any form, except pyrites cinders, provided the total quantity of copper so exported shall not exceed 200 tons.

4. The Norwegian Government agrees that during the continuance of this agreement the following articles shall not be exported from Norway to the Central Powers or their allies:

Domestic animals or their products.

Bismuth.

Nickel.

Wolfram.

Chrome ore.

Pyrites.

Molybdenum.

Nitrates, except the 8,000 tons calcium nitrate mentioned in Article III, 2 (b).

Mica.

Tin.

Antimony.

Manganese.

Titanium.

5. The Norwegian Government agrees that the yearly export to the Central Powers and their allies during the continuance of this agreement of articles not mentioned in Article III, paragraphs 1-4, shall not exceed the quantities exported to the said countries from Norway in 1917, as given in the annexed schedule, marked *H*, nor include any other articles.

If Norway should desire to export to the Central Powers further articles not mentioned or additional quantities of those limited this will be sympathetically considered if the necessity should be shown therefor, but no such exports shall be made without prior written agreement with the War Trade Board.

6. In order to counteract the consequences of Norway having now for a long period of time had her supplies blocked, the moving of supplies to Norway, the stocks of which shall have been depleted, shall be undertaken with the greatest possible intensity, as soon as the present agreement comes into force.

7. Owing to the fact that the interest of a number of persons and firms who have hitherto carried on exports to the Central Powers will through the provisions of the present agreement be seriously interfered with, it is understood that in case such persons and firms guarantee to discontinue all exports to the Central Powers and their allies, except

exports permitted by the provisions of this agreement and referred to hereinafter in this section, they shall not be discriminated against after the conclusion of this agreement, provided such export was not carried on in violation of any existing undertaking or of any Norwegian law.

It is understood and agreed that the persons, firms, and corporations who may export to the Central Powers the commodities in the quantities hereinbefore provided for, or in section 2 of Article III provided for, shall not, because of such export, be deemed enemies or be discriminated against by the United States or the nations associated with the United States in the war.

ARTICLE IV

By way of compensation for the allotment of Norway's requirements, enumerated in the annexed Schedules *A, B, C, D, E, and F*, the Norwegian Government will authorize and permit the export, free of export taxes, of the following commodities to the United States or to any of the countries associated with the United States in the war:

(a) Chemical products. — Nitrates, cyanamide, calcium carbide, silicium carbide, and similar products.

(b) Metallurgical products. — Aluminum, zinc, sodium, ferro-silicon, ferro-chrome, special steel hobnails and nails.

(c) Minerals. — Iron ore concentrates and briquets, pyrites, molybdenite and other ores of the same class.

(d) Wood and manufactures of wood. — Round timber, mainly pitprops, sawn planed wood, pulp (dry), chemical pulp (cellulose), paper, and matches.

(e) Fish and fish products.

And in granting export licenses for said commodities, which Norway hereby agrees to do, free of all taxes or charges, the Norwegian Government will give the United States and her associates preference over all other countries, except as hereinafter in this article provided, for such quantities of said commodities in excess of Norway's genuine requirements for home consumption and as are hereinafter set forth.

It is understood that the preference just hereinbefore provided shall not apply with respect to the articles to be exported from Norway to the Central Powers in accordance with the provisions of section 2 of Article III hereof.

The quantities which it is estimated will thus be available for export to the United States and the countries associated with the United States in the war are substantially as follows (quantities are estimated in metric tons):

1. Chemical products. — Nitrates, 112,000 tons; cyanamide, 10,000 tons; calcium carbide, 30,000 tons; silicium carbide and similar products, 3,000 tons; total, 155,000 tons.

2. Metallurgical products. — Aluminum, 12,000 tons; zinc, 20,000 tons; sodium, 500 tons; ferro-silicon, 20,000 tons, ferro-chrome, 5,000 tons; special steel hobnails and nails, 3,000 tons; total, 60,500 tons.

3. Minerals. — Iron-ore concentrates and briquets, 200,000 tons; pyrites, 130,000 tons; molybdenite and other ores of the same class, 300 tons; total, 330,300 tons.

4. Wood and manufactures of wood. — Round timber, mainly pitprops, 150,000 tons; sawn planed wood, in all 400,000 tons; pulp (dry weight), 125,000 tons; chemical pulp (cellulose), 200,000 tons; paper, 125,000 tons; matches, 5,000 tons; total, 1,005,000 tons.

5. Fish and fish products, 48,000 tons.

Norway will permit the export to the United States and her associates in the war of any other commodities needed by them which she can spare.

6. Norway, while this agreement is in force, agrees that it will do nothing which will have the effect of interfering with exports of any of the commodities designated in this article to the United States or to any country associated with the United States in the war. Norway, while this agreement remains in force, agrees that it will do nothing which will have the effect of preventing an increase in the production of such articles and consequent increase in the export thereof to the United States and her associates where such increase can be effected without prejudice to the genuine Norwegian requirements for home consumption.

Nothing in this section contained shall, however, be construed to prohibit the enactment of laws for the protection or advantage of the laboring classes.

ARTICLE V

1. Nothing herein contained shall be construed as in any manner modifying or changing the terms or conditions of any arrangements or agreements between the Governments of Norway and France,

Italy, or Great Britain providing for the prohibition or restriction of exports from Norway, or the terms or conditions of any arrangement or agreement between the Governments of Norway and France, Italy, or Great Britain, or the terms or conditions of any guaranty given to or agreement made with those governments by Norwegian citizens, which either is now in force or which, having been in abeyance owing to the suspension of imports into Norway, may be revived when such imports recommence, under the terms of this agreement. If any agreement by the terms of which Norway is receiving from any country associated with the United States in the war, all or any part of any commodity needs provided for in the annexed schedules, shall, during the continuance of this agreement, be denounced or terminated at the instance of the Norwegian Government, then the quantity of any commodity which Norway would have been entitled to receive had she permitted the agreement so terminated to continue in force, shall be deducted from the quantities of such commodities set forth in the annexed schedules.

2. It is understood that the Norwegian Government shall have the right to control the import and distribution of all commodities imported into Norway, except as in this agreement provided; any commodity of a kind needed in a manufacturing plant whose import and distribution shall have been approved in this agreement by the Norwegian Government and which commodity shall be employed in producing manufactured articles for the United States or any country associated with the United States in the war, shall not, during the continuance of this agreement, be requisitioned, commandeered, or otherwise diverted or distributed by the Norwegian Government to the detriment of the operation of such plant, nothing in this section however to apply to food.

3. The Norwegian Government hereby declares that it is ready to, and does hereby, authorize trade associations in Norway to negotiate with the Governments of the United States, Great Britain, France, and Italy for the conclusion, revival, renewal, extension, or modification of all agreements with said governments, all such agreements when finally negotiated to be subject to the approval of the Norwegian Government. And the Norwegian Government hereby declares its readiness to permit the enforcement of any control, restriction, or prohibition in regard to imports and exports, and the distribution thereof, provided for in any such agreements, as far as consistent with existing Norwegian law.

It is understood and agreed that this agreement shall commence to operate May 10, 1918.

In witness whereof the War Trade Board has caused these presents to be executed by Vance C. McCormick, its chairman, and Dr. Fridtjof Nansen, special representative of the Norwegian Government, has executed the same on behalf of Norway, this 30th day of April, 1918.

WAR TRADE BOARD

By VANCE C. MCCORMICK,

Chairman.

FRIDTJOF NANSEN,

Special Representative of the Norwegian Government.

Norway

Annual quantities of supplies for Norway under a general agreement with the United States

(Quantities in tons where not otherwise designated)

Kind of goods	Quantities, metric tons	Kind of goods	Quantities, metric tons
<i>Schedule A — Foodstuffs</i>		Fruit, dried	4,000
Bread grains, including rice	¹ 300,000	Fruit, fresh	6,000
Oil cakes and Indian corn	² 200,000	Sugar	50,000
Starches	1,000	Pork and beef	10,000
Cocoa	1,400	<i>Schedule B — Oils and fats, etc.</i>	
Coffee	14,500	Vegetable and animal oils .	10,000
Tea	160	Oil seeds (for seed-crushing	³ 20,000
Sauces and pickles	80	plants)	
Sirup	10,000	Mineral oils	76,500
Spices	382		

¹ Barley used in substitution for rye or wheat as a bread grain will count in proportion of 1.4 to 1, which does not apply in the case of barley used in the manufacture of beer.

² The figure for fodder stuffs of 200,000 tons is in terms of corn values, and includes all concentrates, oil cake being figured at 4 to 1, and includes the fraction of oil seeds in terms of oil cake later included in classification.

³ Two items 10,000 tons vegetable and animal oil and 20,000 tons oil seed in terms of oil. This figure to be estimated in connection with Norwegian stock of fish oil suitable for fabrication into margarine with the addition of a certain amount of cottonseed oil. Any fats or oils to be used in Norway for fabrication of foodstuffs under contract to the Allies, including canning of fish, are to be especially provided for said purposes under special arrangement in each case.

Paraffin wax, stearine, stearine acid, and palm acid.....	750	hardware and tools, chemicals, dyes, colors, drugs, medicines, agricultural implements and agricultural machinery, and other articles to assist Norway in increasing her own production of foodstuffs	(⁶)
Vegetable and mineral turpentine and white spirit	350	<i>Schedule E — Miscellaneous</i>	
Varnishes.....	370	Corkwood	900
Shellac.....	68	Borax and boric acid	80
Rape oil.....	120	Asbestos.....	350
Ceresin, carnauba wax....	40	Rock phosphate.....	40,000
Oils, not specified	1,500	Antimony	12
<i>Schedule C — Rubber, etc.</i>		Electrode carbon and carbon electrodes.....	5,000
Rubber, etc.....	500	Hides	3,500
Rubber covers for automobiles and trucks.....	(⁴)	Tanning extracts.....	5,000
Rubber tubes for same (including new importations on cars).....	8,300	Resin	4,000
Solid rubber tires for trucks (including new importations on cars).....	1,100	Tobacco	2,000
Rubber tires for motorcycles (including new importations on cars).....	2,100	Shoes, boots, and rubbers (mostly rubbers).....	200
Rubber tires for same (including new importations on cars).....	2,100	<i>Schedule F — Metals, minerals, etc.</i>	
<i>Schedule D — Textiles</i>		Tin, raw	(⁷) 80
Silk yarns and tissues....	110	Tin plates	(⁸)
Cotton, raw, yarn and manufactures.....	8,000	Lead	1,000
Wool, wool yarn, and products.....	3,700	Iron and steel (pig-iron ingots, bars, hoops, angles, plates, pipes, fittings, wire, etc.).....	250,000
Flax, hemp, jute, and tow	6,500	Copper (plates, bars, pipes, wire, cable)	7,000
Metal-working machinery of all kinds.....	(⁹)	<i>Schedule H (⁹)</i>	
Fixtures, motor cars, motor trucks, bicycles, writing machines, cash registers, accounting machines,		Down.....	0.003
		Skin of otter.....	0.001
		Skin of fox.....	0.685

⁴ 17,000 pieces (including new importations on cars).⁵ Subject to special agreements.⁶ As required by Norway.⁷ Increase subject to future agreement.⁸ Subject to future agreement.⁹ Figures to the right of the decimal point are kilograms.

Kind of goods	Quantities, metric tons	Kind of goods	Quantities, metric tons
Skin of polar bear.....	0.760	Silver waste.....	1.998
Skin of seal.....	213.190	Pumps.....	0.160
Skin of shark.....	0.550	Tools, etc.....	11.600
Skin of wild animals not specified.....	3.430	Other manufactures of iron.....	0.165
Whalebones.....	16.668	Manufactures of silver ...	0.003
Furniture.....	0.050	Manufactures of gold	0.001
Lichens.....	7.009	Other machinery.....	136.324
Writing paper.....	0.080	Various tools and appara- tus.....	24
Various manufactures of paper.....	0.018	Medicines, norgin and tangin.....	11.800
Waste of paper.....	314.395		0.222
Rutil.....	2.133	Books.....	1.778
Granite.....	2,531.020	Rat poison.....	8.100
Felspar.....	1,260.000	Ice.....	99.000
Soapstone.....	231.780	Waste of soapstone.....	7.760
Stone chiseled.....	97.267	Seaweed.....	425.000
Whetstones.....	98.670	Moosehorn.....	2.000
Felspar dust.....	125.500	Lead ash.....	21.683
Talcum.....	17.120	Screws.....	0.732
Seaweed ashes.....	478.300	Old electric motors.....	6.542
Phosphorus, raw.....	4.296	Iron ore.....	133,614.000
Blystam.....	1.965	Zinc.....	4,467.000

PROCLAMATION CONCERNING THE POSSESSION AND UTILIZATION
OF NETHERLANDS VESSELS

No. 1436. March 20, 1918

WHEREAS, the law and practice of nations accords to a belligerent Power the right in time of military exigency and for purposes essential to the prosecution of war, to take over and utilize neutral vessels lying within its jurisdiction:

And WHEREAS the Act of Congress of June 15, 1917, entitled, "An Act making appropriations to supply urgent deficiencies in appropriations for the military and naval establishments on account of war expenses for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes," confers upon the President power to take over the possession of any vessel within the jurisdiction of the United States for use or operation by the United States:

Now therefore I, Woodrow Wilson, President of the United States of America, in accordance with international law and practice, and by virtue of the Act of Congress aforesaid, and as Commander-in-Chief of the Army and Navy of the United States, do hereby find and proclaim that the imperative military needs of the United States require the immediate utilization of vessels of Netherlands registry, now lying within the territorial waters of the United States; and I do therefore authorize and empower the Secretary of the Navy to take over on behalf of the United States the possession of and to employ all such vessels of Netherlands registry as may be necessary for essential purposes connected with the prosecution of the war against the Imperial German Government. The vessels shall be manned, equipped, and operated by the Navy Department and the United States Shipping Board, as may be deemed expedient; and the United States Shipping Board shall make to the owners thereof full compensation, in accordance with the principles of international law.

In Testimony Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE in the District of Columbia, this twentieth day of March, in the year of our Lord one thousand nine hundred and
[SEAL.] eighteen, and of the Independence of the United States of America the one hundred and forty-second.

WOODROW WILSON.

By the President:

ROBERT LANSING,
Secretary of State.

EXECUTIVE ORDER TAKING POSSESSION OF EQUIPMENT ON BOARD
NETHERLANDS VESSELS

No. 2825-A. March 28, 1918

In pursuance of the authority conferred upon the President of the United States by the Act approved June 15, 1917, entitled, "An Act making appropriations to supply urgent deficiencies for the fiscal year ending June 30, 1917, and for other purposes," the Secretary of the Navy is hereby authorized and directed to take over, on behalf of the United States, possession of all tackle, apparel, furniture and equipment and all stores, including bunker fuel, aboard each of the vessels of Netherlands registry now lying within the territorial jurisdiction

of the United States, possession of which was taken in accordance with the proclamation of the President of the United States promulgated March 20, 1918; and in every instance in which such possession has heretofore been taken of such tackle, apparel, furniture, equipment, and stores, such taking is hereby adopted and made of the same force and effect as if it had been made subsequent to the signing of this executive order.

The United States Shipping Board shall make to the owners of any tackle, apparel, furniture, equipment, and stores taken under the authority of this order full compensation in accordance with the principles of international law.

WOODROW WILSON.

THE WHITE HOUSE,
March 28, 1918.

PROCLAMATION INCLUDING CERTAIN CITIZENS OR SUBJECTS OF GERMANY
OR AUSTRIA-HUNGARY AS "ENEMIES" FOR PURPOSES OF TRADING
WITH THE ENEMY ACT.

No. 1454. May 31, 1918

WHEREAS paragraph (c) of section two of the Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, known as the Trading with the Enemy Act, provides that the word "enemy" as used therein shall be deemed to mean, for the purpose of such trading and of said Act, in addition to the individuals, partnerships, or other bodies of individuals or corporations specified in paragraph (a), and in addition to the government and political or municipal subdivisions, officers, officials, agents, or agencies thereof specified in paragraph (b), of said section two, the following:

Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy";

Now, therefore, I, WOODROW WILSON, President of the United States of America, pursuant to the authority vested in me, and in accordance with the provisions of the said Act of October 6, 1917, known as the Trading with the Enemy Act, do hereby find that the

safety of the United States and the successful prosecution of the present war require that,

(1) Any woman, wherever resident outside of the United States, who is a citizen or subject of any nation with which the United States is at war and whose husband is either (a) an officer, official, or agent of the government of any nation with which the United States is at war, or (b) resident within the territory (including that occupied by the military or naval forces) of any nation with which the United States is at war, or (c) resident outside of the United States and doing business within such territory; and

(2) All citizens or subjects of any nation with which the United States is at war (other than citizens of the United States) who have been or shall hereafter be detained as prisoners of war, or who have been or shall hereafter be interned by any nation which is at war with any nation with which the United States is also at war; and

(3) Such other individuals or body or class of individuals as may be citizens or subjects of any nation with which the United States is at war (other than citizens of the United States) wherever resident outside of the United States, or wherever doing business outside of the United States, who since the beginning of the war have disseminated, or shall hereafter disseminate propaganda calculated to aid the cause of any such nation in such war, or to injure the cause of the United States in such war, or who since the beginning of the war have assisted or shall hereafter assist in plotting or intrigue against the United States, or against any nation which is at war with any nation which is at war also with the United States; and

(4) Such other individuals or body or class of individuals as may be citizens or subjects of any nation with which the United States is at war wherever resident outside of the United States, or wherever doing business outside of the United States, who are or may hereafter be included in a publication issued by the War Trade Board of the United States of America, entitled "Enemy Trading List"; and the term "body or class of individuals" as herein used shall include firms and copartnerships contained in said enemy trading list of which one or more of the members or partners shall be citizens or subjects of any nation with which the United States is at war; and

(5) Any citizen or subject of any nation with which the United States is at war wherever resident outside of the United States, who has been at any time since August 4, 1914, resident within the territory

(including that occupied by the military or naval forces) of any nation with which the United States is at war, shall all be included within the meaning of the word "enemy" for the purposes of the "Trading with the Enemy Act" and of such trading; and I do hereby proclaim to all whom it may concern that every such individual or body or class of individuals herein referred to shall be and hereby is included within the meaning of the word "enemy" and shall be deemed to constitute an "enemy" for said purposes.

And by virtue of further authority vested in me by said Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, and known as the Trading with the Enemy Act, I hereby make the following order, rule and regulation.

I hereby require that, pursuant to the provisions of subsection (a) of section seven of said "Trading with the Enemy Act," every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall transmit to the Alien Property Custodian a full list of every officer, director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustee may have reasonable cause to believe to be, included by the above proclamation within the term "enemy," together with a statement of the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest; and any person in the United States who holds or has or shall hold or have custody or control of money or other property, beneficial or otherwise, alone or jointly with others, of, for, by, on account of or on behalf of, or for the benefit of, and any person within the United States, who is or shall be indebted in any way to, any person included by the above proclamation within the term "enemy," or any person whom he may have reasonable cause to believe to be so included, shall report the fact to the Alien Property Custodian.

Such lists, statements, and reports shall be made and transmitted to the Alien Property Custodian, in such form and under such rules and regulations as he may prescribe within thirty days after the date of this order, or within thirty days after money or other property owing or belonging to or held for, by, on account of or on behalf of, or for the benefit of any such "enemy" shall come within the custody or control of the reporter, or within thirty days after any person shall

become an "enemy" by virtue of the terms of the above proclamation.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE in the District of Columbia this 31st day of May, in
the year of our Lord one thousand nine hundred and
[SEAL.] eighteen, and of the independence of the United States
the one hundred and forty-second.

WOODROW WILSON.

By the President:

ROBERT LANSING,
Secretary of State.